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ROYAL COMMISSION ON TRADE DISPUTES AND TRADE
COMBINATIONS.

Nov. 20

MINUTES OF EVIDENCE

c†

TAKEN BEFORE THE

ROYAL COMMISSION

ON

TRADE DISPUTES & TRADE COMBINATIONS

TOGETHER WITH

INDEX AND APPENDICES.

Presented to both Houses of Parliament by Command of His Majesty.



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CONTENTS.

	PAGE
COPY OF ROYAL WARRANT, dated 6th June, 1903	iii.
LIST OF WITNESSES arranged alphabetically	v.
LIST OF WITNESSES in order of examination	ix.
MINUTES OF EVIDENCE	1
INDEXES TO MINUTES OF EVIDENCE:—	
I. General Index	311
II. The Evidence of each Witness Indexed separately	327
APPENDICES	i

Rec June 7, 1907

Royal Warrant.

EDWARD, R. and I.

Edward the Seventh, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, King, Defender of the Faith, to :—

Our right trusty and well-beloved Councillor Andrew Graham Murray, one of our Counsel learned in the Law, our Advocate in Scotland, Chairman ;

Our trusty and well-beloved Sir William Thomas Lewis, Baronet ;

Our trusty and well-beloved Sir Godfrey Lushington, Knight Grand Cross of our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of our Most Honourable Order of the Bath ;

Our trusty and well-beloved Arthur Cohen, Esquire, one of our Counsel learned in the Law ; and

Our trusty and well-beloved Sidney Webb, Esquire ; Greeting !

Whereas we have deemed it expedient that a Commission should forthwith issue to enquire into the subject of Trade Disputes and Trade Combinations and as to the law affecting them, and to report on the law applicable to the same and the effect of any modifications thereof :

Now know ye that We, reposing great trust and confidence in your knowledge and ability, have authorized and appointed, and do by these presents authorize and appoint, you, the said Andrew Graham Murray ; Sir William Thomas Lewis ; Sir Godfrey Lushington ; Arthur Cohen ; and Sidney Webb to be our Commissioners for the purposes of the said enquiry.

And for the better effecting the purposes of this Our Commission, We do by these presents give and grant unto you or any three or more of you, full power to call before you such persons as you shall judge likely to afford you any information upon the subject of this Our Commission ; and also to call for, have access to and examine all such books, documents, registers, and records as may afford you the fullest information on the subject, and to enquire of and concerning the premises by all other lawful ways and means whatsoever.

And We do by these presents authorize and empower you, or any three or more of you, to visit and personally inspect such places as you may deem it expedient so to inspect for the more effectual carrying out of the purpose aforesaid.

• **And** We do by these presents will and ordain that this Our Commission shall continue in full force and virtue and that you our said Commissioners, or any three or more of you, may from time to time proceed in the execution thereof, and of every matter and thing therein contained, although the same be not continued from time to time by adjournment.

And We do further ordain that you, or any three or more of you, have liberty to report your proceedings under this our Commission from time to time if you shall judge it expedient to do so.

And Our further will and pleasure is that you do, with as little delay as possible, report to Us under your hands and seals, or under the hands and seals of any three or more of you, your opinion upon the matters herein submitted for your consideration.

Given at Our Court at *Saint James's*, the sixth day of *June*, one thousand nine hundred and three, in the third year of Our Reign.

By His Majesty's Command,

A. AKERS DOUGLAS.

THE ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

LIST OF WITNESSES ARRANGED ALPHABETICALLY.

NAME.	DESCRIPTION.	DATE.	QUESTION.	PAGE.
ALLEN, John	Member of the Executive of the National Federation of Merchant Tailors, and Editor of the "Master Tailor and Cutters' Gazette"	30th November, 1904	2689	175
ASHWORTH, Edmund	Member of the Firm of Messrs. Adam Ashworth and Sons, Hat Manufacturers, Bury, Lancashire	30th November, 1904	2675	174
ASKWITH, George Ranken	Barrister-at-law and Counsel to H.M. Commissioners of Works and Public Buildings, Arbitrator and Conciliator to the Board of Trade	14th March, 1904	1	1
ASKWITH, George Ranken	" " "	17th March, 1904	90	7
ASKWITH, George Ranken	" " "	21st March, 1904	130a	12
ASKWITH, George Ranken	" " "	24th March, 1904	152	18
ASKWITH, George Ranken	" " "	20th April, 1904	198	23
ASKWITH, George Ranken	" " "	27th April, 1904	253	30
ASKWITH, George Ranken	" " "	5th May, 1904	488	38
ASKWITH, George Ranken	" " "	11th May, 1904	652	44
ASKWITH, George Ranken	" " "	18th May, 1904	788	50
BADGER, James A.	Tile, Mosaic and Faience Fixer, and an aggrieved and discharged Trade Unionist	8th December, 1904	3717	221
BAGLEY, William	Member of the Firm of Messrs. W. Bagley and Company, Limited, Glass Bottle Manufacturers, Knottingley, and Founder of the Yorkshire Glass Bottle Manufacturers' Association	14th December, 1904	4041	236
BAIRD, Robert	Secretary to the Lanarkshire Coalmasters' Association, and also to the Scotch Coal Trade Conciliation Board	10th August, 1904	1569	115
BEALE, James Samuel	Solicitor to the Midland Railway Company, and Official Representative of the Railway Companies' Association	21st December, 1904	4898	276

NAME.	DESCRIPTION.	DATE.	QUESTION.	PAGE.
BEASLEY, Ammon - - -	General Manager, Taff Vale Railway Company	1st June, 1904	951	58
BEASLEY, Ammon - - -	" " "	22nd June, 1904	1019	65
BEASLEY, Ammon - - -	" " "	23rd June, 1904	1070	72
BEASLEY, Ammon - - -	" " "	29th June, 1904	1130	81
BEASLEY, Ammon - - -	" " "	6th July, 1904	1166	90
BEASLEY, Ammon - - -	" " "	13th July, 1904	1269	98
BENHAM, F. R. - - -	Member and Ex-Chairman and Official Representative of the Staffordshire Potteries Manufacturers' Association	21st December, 1904	4977	280
BROWNE, Sir Benjamin C. -	Chairman of R. and W. Hawthorn, Leslie and Company, Limited, Engineers and Ship-builders	7th December, 1904	2717	178
CARDWELL, Joseph - - -	General Secretary of the Association of Non-Unionists	14th December, 1904	4276	245
CHAMBERLIN, A. E. W. - -	Secretary of the Incorporated Federated Association of Boot and Shoe Manufacturers of Great Britain and Ireland	14th December, 1904	4220	242
COLLISON, W. - - -	General Secretary and Manager of the National Free Labour Association	15th December, 1904	4608	259
CORELLI, C. - - -	Secretary of the Association of London Master Tailors	30th November, 1904	2704	177
DUKE, James - - -	An aggrieved Trade Unionist	7th December, 1904	3018	192
ELLIS, William - - -	General Secretary of the Provincial Free Labour Association, Glasgow	5th April, 1905	5441	306
FRENCH, David - - -	Member of the Firm of Messrs. Wragg and Company, Stonemasons, King's Heath, Birmingham	15th December, 1904	4777	270
GREENWOOD, B. J. - - -	Ex-President of the National Federation of Building Trade Employers of Great Britain and Ireland	23rd November, 1904	1912	130
GUTHRIE, Reginald - - -	Secretary to the Coalowners' Associations of Durham and Northumberland	27th July, 1904	1406	106
HADDEN, James Albert - -	Secretary of the United Kingdom Granite and Whinstone Quarry Masters' Association	15th December, 1904	4750	268
HEENAN, John -	Watchman on the River Thames	8th December, 1904	3787	226
HICKSON, Alderman William	President of the Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland	14th December, 1904	4220	242
INGLIS, John, LL.D. - - -	Official Representative of the Ship-building Employers' Federation	14th December, 1904	3911	232
JACOBS, T. W., Junior - -	Managing Director of the Thames Steam Tug and Lighterage Company, and Member of the Association of Master Lightermen and Barge Owners of the Port of London	30th November, 1904	2660	172
JAMES, M. C. - - -	Managing Director of the Mercantile Dry Dock, Jarrow-on-Tyne, and Chairman and Official Representative of the North-East Coast Ship Repairers' Association	15th December, 1904	4652	263
KEARSEY, Robert Alfred - -	One of the Official Representatives of the London Master Carmen and Cartage Contractors' Association	29th November, 1904	2112	147

NAME.	DESCRIPTION.	DATE.	QUESTION.	PAGE.
KENSHOLE, Charles - - -	Solicitor to the Monmouthshire and South Wales Coal Owners' Association	23rd November, 1904	1730a	122
KNOTT, F. B. - - -	Secretary and one of the Official Representatives of the Federation of Master Bleachers and Dyers	21st December, 1904	5014	282
LAMBERT, Richard - - -	Managing Director of the Union Lighterage Company, and Ex-President and Official Representative of the Association of Master Lightermen and Barge Owners of the Port of London	30th November, 1904	2605	170
LAVINGTON, George - - -	One of the Official Representatives of the London Master Carmen and Cartage Contractors' Association	29th November, 1904	2112	147
LAW, Cuthbert - - -	General Manager of the Shipping Federation	12th January, 1905	5374	301
LISCOMBE, A. C. - - -	Formerly a Member of the United Pattern Makers' Association, and a discharged and aggrieved Trade Unionist	8th December, 1904	3753	224
LIVESEY, Sir George, M.I.C.E., M.I.M.E.	Chairman of the South Metropolitan Gas Company	15th December, 1904	4331	247
LOCKET, George C. - - -	Vice-Chairman of the Society of Coal Merchants in London	23rd November, 1904	1892	129
LOCKHEAD, Harry. - - -	Superintendent of the Cheshire District of the Salt Union, Limited	8th December, 1904	3602	216
MILLAR, Frederick - - -	Secretary to the Employers' Parliamentary Council and the Labour Protection Association	8th December, 1904	3206	201
MONTGOMERY, H. G. - - -	Hon. Secretary to the Institute of Clayworkers	21st December, 1904	5172	291
NESBIT, D. M. - - -	President and one of the Official Representatives of the National Association of Master Heating and Domestic Engineers	21st December, 1904	5163	289
NEWMAN, Edward - - -	North Sea and Channel Pilot and Rigger	8th December, 1904	3668	219
NOBLE, Sir Andrew, Bart., K.C.B.	Chairman of Sir William Armstrong, Whitworth and Company, and Official Representative of the Engineering Employers' Federation	30th November, 1904	2408	159
OWENS, Sir Charles John - -	General Manager of the London and South Western Railway, and one of the Official Representatives of the Railway Companies' Association	21st December, 1904	4795	272
PLEWS, Henry - - -	General Manager of the Great Northern (Ireland) Railway	12th January, 1905	5181	292
RHODES, Frederick Parker -	Secretary to the South Yorkshire Coal Owners' Association	29th November, 1904	2174	149
RITSON, George - - -	Superintendent of the Labour Department of the British Westinghouse Company, Limited, Trafford Park, Manchester, and late District Secretary of the National Free Labour Association	7th December, 1904	2954	188
RUDD, James - - -	A Worker in the Cabinet-making Trade, and a Non-Unionist	8th December, 1904	3475	210
SHEPHERD, William - - -	Official Representative of the National Federation of Building Trade Employers of Great Britain and Ireland, and of the London Master Builders' Association	24th November, 1904	1942	132
SOALL, George - - -	Secretary to the National Association of Master Plasterers	14th December, 1904	4101	238

NAME.	DESCRIPTION.	DATE.	QUESTION.	PAGE.
STODDART, Francis	Secretary to the Scotch Committee of the National Federation of Merchant Tailors, and of the Glasgow Branch of that Federation	21st December, 1904	5086	286
TAYLOR, Samuel	One of the Official Representatives of the London Master Carmen and Cartage Contractors' Association	29th November, 1904	2112	147
THOMSON, Andrew, Junior	Official Representative of the Scottish Furniture Manufacturers' Association	7th December, 1904	2980	190
TILLING, Richard S.	Managing Director of Thomas Tilling, Limited, Jobmasters, Omnibus and Cab Proprietors.	29th November, 1904	2361	157
WALLIS, W. F.	Member of the National Federation of Building Trade Employers of Great Britain and Ireland, and President of the Southern Counties' Federation	24th November, 1904	1924	131
WARBURTON, Thomas	Vice-President and one of the Official Representatives of the Federation of Master Bleachers and Dyers	21st December, 1904	5014	282
WATSON, Edward	One of the Managing Directors of the City of Dublin Steam Packet Company	14th December, 1904	3808	227
WATT, H. B.	Secretary and one of the Official Representatives of the National Association of Master Heating and Domestic Engineers	21st December, 1904	5163	289
WHITE, Alexander G.	Official Representative of the Lancashire, Cheshire and North Wales Building Trades Employers' Federation	24th November, 1904	2024	137
WRIGHT, James	Official Representative of the Midland centre of the National Federation of Building Trade Employers of Great Britain and Ireland	7th December, 1904	3057	195
YOUNG, John	Formerly President of the Newcastle and District Operative Plasterers' Association	8th December, 1904	3494	211

THE ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

LIST OF WITNESSES IN ORDER OF EXAMINATION.

DATE.	NAME.	DESCRIPTION.	QUESTION.	PAGE.
FIRST DAY: 14th March, 1904.	Mr. GEORGE RANKEN ASKWITH	Barrister-at-law and Counsel to H.M. Commissioners of Works and Public Buildings, Arbitrator and Conciliator to the Board of Trade	1	1
SECOND DAY: 17th March, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	90	7
THIRD DAY: 21st March, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	130a	12
FOURTH DAY: 24th March, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	152	18
FIFTH DAY: 20th April, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	198	23
SIXTH DAY: 27th April, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	253	30
SEVENTH DAY: 5th May, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	488	38
EIGHTH DAY: 11th May, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	652	44
NINTH DAY: 18th May, 1904.	Mr. GEORGE RANKEN ASKWITH (<i>continued</i>)	" " "	788	50
TENTH DAY: 1st June, 1904.	Mr. AMMON BEASLEY	General Manager, Taff Vale Rail- way Company	951	58
ELEVENTH DAY: 22nd June, 1904.	Mr. AMMON BEASLEY (<i>con- tinued</i>)	" " "	1019	65
TWELFTH DAY: 23rd June, 1904.	Mr. AMMON BEASLEY (<i>con- tinued</i>)	" " "	1070	72
THIRTEENTH DAY: 29th June, 1904.	Mr. AMMON BEASLEY (<i>con- tinued</i>)	" " "	1130	81
FOURTEENTH DAY: 6th July, 1904.	Mr. AMMON BEASLEY (<i>con- tinued</i>)	" " "	1166	90
FIFTEENTH DAY: 13th July, 1904.	Mr. AMMON BEASLEY (<i>con- tinued</i>)	" " "	1269	98
SIXTEENTH DAY: 27th July, 1904.	Mr. REGINALD GUTHRIE	Secretary to the Coalowners' Associations of Durham and Northumberland	1406	106
SEVENTEENTH DAY: 10th August, 1904.	Mr. ROBERT BAIRD	Secretary to the Lanarkshire Coal- masters' Association, and also to the Scotch Coal Trade Concilia- tion Board	1569	115

DATE.	NAME.	DESCRIPTION.	QUESTION.	PAGE.
EIGHTEENTH DAY : 23rd November, 1904.	Mr. CHARLES KENSHOLE -	Solicitor to the Monmouthshire and South Wales Coal Owners' Association	1730a	122
	Mr. GEORGE C. LOCKET -	Vice-Chairman of the Society of Coal Merchants in London	1892	129
	Mr. B. J. GREENWOOD -	Ex-President of the National Federation of Building Trade Employers of Great Britain and Ireland	1912	130
NINETEENTH DAY : 24th November, 1904.	Mr. W. F. WALLIS -	Member of the National Federation of Building Trade Employers of Great Britain and Ireland, and President of the Southern Counties Federation	1924	131
	Mr. WILLIAM SHEPHERD	Official Representative of the National Federation of Building Trade Employers of Great Britain and Ireland, and of the London Master Builders' Association	1942	132
	Mr. ALEXANDER G. WHITE	Official Representative of the Lancashire, Cheshire, and North Wales Building Trades Employers' Federation	2024	137
TWENTIETH DAY : 29th November, 1904.	Mr. SAMUEL TAYLOR -	Official Representatives of the London Master Carmen and Cartage Contractors' Association	2112	147
	Mr. ROBERT ALFRED KEARSEY			
	Mr. GEORGE LAVINGTON -	Secretary to the South Yorkshire Coal Owners' Association	2174	149
	Mr. FREDERICK PARKER RHODES	Managing Director of Thomas Tilling, Limited, Jobmasters, Omnibus and Cab Proprietors	2361	157
	Mr. RICHARD S. TILLING	Chairman of Sir William Armstrong, Whitworth and Company, and Official Representative of the Engineering Employers' Federation	2408	159
TWENTY-FIRST DAY : 30th November, 1904.	Sir ANDREW NOBLE, Bart., K.C.B.			
	Mr. RICHARD LAMBERT -	Managing Director of the Union Lighterage Company, and Ex-President and Official Representative of the Association of Master Lightermen and Barge Owners of the Port of London	2605	170
	Mr. T. W. JACOBS, Junior	Managing Director of the Thames Steam Tug and Lighterage Company, and member of the Association of Master Lightermen and Barge Owners of the Port of London	2660	172
	Mr. EDMUND ASHWORTH	Member of the Firm of Messrs. Adam Ashworth and Sons, Hat Manufacturers, Bury, Lancashire	2675	174
	Mr. JOHN ALLEN -	Member of the Executive of the National Federation of Merchant Tailors, and Editor of the Master Tailor and Cutters' Gazette	2689	175
	Mr. C. CORELLI -	Secretary of the Association of London Master Tailors	2704	177
	Sir BENJAMIN C. BROWNE	Chairman of R. and W. Hawthorn, Leslie and Company, Limited, Engineers and Shipbuilders	2717	178
TWENTY-SECOND DAY : 7th December, 1904.	Mr. GEORGE RITSON -	Superintendent of the Labour Department of the British Westinghouse Company, Limited, Trafford Park, Manchester, and late District Secretary of the National Free Labour Association	2954	188
	Mr. ANDREW THOMSON, Junior	Official Representative of the Scottish Furniture Manufacturers' Association	2980	190
	Mr. JAMES DUKE -	An aggrieved Trade Unionist	3018	192

DATE.	NAME.	DESCRIPTION.	QUESTION.	PAGE.
TWENTY-SECOND DAY : 7th December, 1904— <i>cont.</i>	Mr. JAMES WRIGHT -	Official Representative of the Mid-land centre of the National Federation of Building Trade Employers of Great Britain and Ireland	3057	195
	Mr. FREDERICK MILLAR -	Secretary to the Employers' Parliamentary Council and the Labour Protection Association	3206	201
TWENTY-THIRDDAY : 8th December, 1904.	Mr. JAMES RUDD -	A Worker in the Cabinet Making Trade, and a Non-Unionist	3475	210
	Mr. JOHN YOUNG -	Formerly President of the Newcastle and District Operative Plasterers' Association	3494	211
	Mr. HARRY LOCKHEAD -	Superintendent of the Cheshire District of the Salt Union, Ltd.	3602	216
	Mr. EDWARD NEWMAN -	North Sea and Channel Pilot and Rigger	3668	219
	Mr. JAMES A. BADGER -	Tile, Mosaic and Faience Fixer and an aggrieved and discharged Trade Unionist	3717	221
	Mr. A. C. LISCOMBE -	Formerly a member of the United Pattern Makers' Association, and a discharged and aggrieved Trade Unionist	3753	224
	Mr. JOHN HEENAN -	Watchman on the River Thames	3787	226
TWENTY-FOURTH DAY : 14th December, 1904.	Mr. EDWARD WATSON -	One of the Managing Directors of the City of Dublin Steam Packet Company	3808	227
	Mr. JOHN INGLIS, L.L.D. -	Official Representative of the Ship-building Employers' Federation	3911	232
	Mr. WILLIAM BAGLEY -	Member of the Firm of Messrs. W. Bagley and Company, Limited, Glass Bottle Manufacturers, Knottingley, and founder of the Yorkshire Glass Bottle Manufacturers' Association	4041	236
	Mr. GEORGE SOALL -	Secretary to the National Association of Master Plasterers	4101	238
	Alderman Wm. HICKSON -	President of the Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland	4220	242
	Mr. A. E. W. CHAMBERLIN	Secretary of the Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland	4220	242
	Mr. JOSEPH CARDWELL -	General Secretary of the Association of Non-Unionists	4276	245
TWENTY-FIFTHDAY : 15th December, 1904.	Sir GEORGE LIVESEY, M.I.C.E., M.I.M.E.	Chairman of the South Metropolitan Gas Company	4331	247
	Mr. W. COLLISON -	General Secretary and Manager of the National Free Labour Association	4608	259
	Mr. M. C. JAMES -	Managing Director of the Mercantile Dry Dock, Jarrow-on-Tyne, and Chairman and Official Representative of the North East Coast Ship Repairers' Association	4652	263
	Mr. JAMES ALBERT HADDEN	Secretary of the United Kingdom Granite and Whinstone Quarry Masters' Association	4750	268
TWENTY-SIXTHDAY : 21st December, 1904.	Mr. DAVID FRENCH -	Member of the Firm of Messrs. Wragg and Company, Stone Masons, King's Heath, Birmingham	4777	270
	Sir CHARLES J. OWENS -	General Manager of the London and South Western Railway, and one of the Official Representatives of the Railway Companies' Association	4795	272

DATE.	NAME.	DESCRIPTION.	QUESTION.	PAGE.
TWENTY-SIXTH DAY: 21st December, 1904— <i>cont.</i>	Mr. JAMES SAMUEL BEALE	Solicitor to the Midland Railway Company and one of the Official Representatives of the Railway Companies' Association	4898	276
	Mr. F. R. BENHAM	Member and Ex-Chairman and Official Representative of the Staffordshire Potteries Manufacturers' Association	4977	280
	Mr. THOMAS WARBURTON - Mr. F. B. KNOTT -	Vice-President and Secretary and Official Representatives of the Federation of Master Bleachers and Dyers -	5014	282
	Mr. FRANCIS STODDART	Secretary to the Scotch Committee of the National Federation of Merchant Tailors and of the Glasgow Branch of that Federation	5086	286
	Mr. D. M. NESBIT - Mr. H. B. WATT -	President and Secretary and Official Representatives of the National Association of Master Heating and Domestic Engineers	5163	289
	Mr. H. G. MONTGOMERY	Hon. Secretary to the Institute of Clayworkers	5172	291
	Mr. HENRY PLEWS -	General Manager of the Great Northern (Ireland) Railway	5181	292
	Mr. CUTHBERT LAWS-	General Manager of the Shipping Federation	5374	301
	Mr. WILLIAM ELLIS -	General Secretary of the Provincial Free Labour Association, Glasgow	5441	306
TWENTY-SEVENTH DAY: 12th January, 1905.				
TWENTY-EIGHTH DAY: 5th April, 1905.				

[1]

MINUTES OF EVIDENCE

TAKEN BEFORE THE

ROYAL COMMISSION

ON

TRADE DISPUTES AND TRADE COMBINATIONS,

AT ROYAL COMMISSIONS' HOUSE, No. 5, OLD PALACE YARD,
WESTMINSTER.

FIRST DAY.

Monday, 14th March, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*.)

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH called and examined.

1. (*Chairman*.) You are a barrister-at-Law, and counsel to His Majesty's Commissioners of Works and Public Buildings?—Yes.

2. During the last few years have you been often appointed as arbitrator or conciliator in trade disputes?—I have been appointed by the Board of Trade for, I think, twenty to thirty trade disputes in England and Scotland.

3. And in working out those disputes, I suppose, you have had to consider the law relating to, as well as the conditions of, labour?—That is so, and I have further examined the cases before giving evidence.

4. Of course, you are not here in any way as a representative of the Board of Trade?—No. I have been suggested by the Board of Trade as a witness, but I must not, in anything I say, be taken to express their view or opinion, or to bind them.

5. Indeed, so far as the Board of Trade is concerned, I take it that they have no side upon these matters?—As a Government Department they take no view; they wish to hold an impartial attitude.

6. Their precise position in appointing an arbitrator, when they have employed one, has always been that of a neutral, I suppose?—Entirely so.

7. Now, taking the cases in which the law dealing with trade combinations has been most dealt with and commented on in recent years, I suppose they would naturally arrange themselves into various groups, would they not?—Yes, I think so.

8. And shall we take, first, the group which may be represented by the case of the Taff Vale Railway Company against the Amalgamated Society of Railway Servants?—That seems to me one of the most important of all the cases, and, I think, it might be a convenient one to take first. Before dealing with it I have some statistics from the Board of Trade of the strength of unions, their number

of members and their funds, and the employment that has been made of their funds. Perhaps it might be useful to the Commission to know the factors with which they are dealing from these statistics, if I give a short account of them.

9. We may as well take them now as at any other time?—The tables that have been prepared deal with the numbers and the funds and so on over a decennial period from 1892 to 1902.

10. May I interpose for one moment. I take it that these tables are part of the general stock-in-trade of the Board of Trade?—Yes.

11. They are not prepared by them *ad hoc* for this Commission?—No. At the end of 1902 there were 1,183 Trade Unions. Those trade unions had a total membership of 1,915,506 persons, that was a decrease from the preceding year of 12,446. Of these numbers 69 per cent. are found in the building, mining and quarrying, metal, engineering, shipbuilding, and textile trades. The mining and quarrying trades alone contain 520,000 or 27 per cent. of the total number of trade unionists in the United Kingdom. Then I will put in a table showing the membership of the 100 principal trade unions and of all other unions, with the percentage of increase and decrease compared with the previous year for each of the years from 1892 to 1902. In the period of ten years the membership of the unions has increased by 27 per cent; in the 100 principal unions it has increased nearly 29 per cent., and in the other unions rather more than 23 per cent. Among the unions 139 included women and girls, and the total number of those at the end of the year 1902 was 122,128. In the period of these ten years the funds of the 100 unions have risen from £1,576,280, or 35s. per head of the total membership, to £4,424,596, that is, a rise from 35s. per head to 75s. 8½d., an increase of 181 per cent. on the aggregate of 1892. The income of the unions in 1902

Mr. G. R.
Askwith.

14 Mar. 1904.

Mr. G. R.
Askwith.

14 Mar. 1904.

was £2,109,656, the highest of all the years given in the table, and the expenditure was £1,814,727. Then there is a chart and a table showing the fluctuations in the amount of funds in hand of the 100 unions and the expenditure. The slowest increase made in any year was in 1897, which was the year of the engineering dispute. Taking the expenditure of the 100 unions under the various headings of "dispute benefit," "unemployed and friendly benefits," and "working and other expenses of management," it is found that in 1902 11·9 of the total expenditure was spent upon disputes; 66·2 upon unemployed and friendly benefits, and 21·9 upon working and other expenses of management; which shows that a comparatively small amount was expended upon disputes and a very large amount indeed upon unemployed and friendly benefits. I have also a table here showing the amount in each year spent upon those things. During the eleven years from 1892 to 1902, the 100 principal unions have expended £16,900,000, of which amount over £10,300,000 or 61 per cent. has been spent on unemployed and friendly benefits, about £3,200,000, or 19 per cent. of the total has been spent upon dispute benefit, and the remaining 20 per cent. on working and other expenses of management. The lowest percentage of expenditure on dispute benefit was 9·4 in 1899 and the highest 34·5 in 1897—that was the engineering dispute once more. Then there are some charts showing that. There are also some charts summarising the statistics of strikes and lock-outs in the United Kingdom in each of the ten years from 1893 to 1902, which are based on the published Returns of the Labour Department of the Board of Trade. I think I might put them in just as they stand without any comment. They require to be looked at afterwards.

12. Then you put in all those tables?—Yes (*handing in the same. Vide Appendices, pp. 1-4.*) I also put in some tables which have been prepared specially for the St. Louis Exposition with charts showing the trade disputes and the number of workpeople directly affected, classified by their trades, causes, and results, for the ten years from 1894 to 1903; a chart showing the membership of all trade unions in each year from 1893 to 1902, and the mean for the period, classified by trades; and a chart showing an analysis of the expenditure of trade unions on the different things. These are on pages 22, 23, and 24 of this book. There is another on page 21. Those are the four pages (*handing in a book. Vide Appendices, pp. 5 and 6.*)

13. Now coming to the Taff Vale case, would you just tell us first of all, shortly, what the history of that case was?—The Taff Vale case is reported so far as it came on appeal from Mr. Justice Farwell to the Court of Appeal [1901] 1 K.B., 170, and before the House of Lords [1901] A.C., 426. Shortly, that case declared that a Trades Union can be sued for the wrongful acts of its officers acting within the scope of their authority. The action was brought by the plaintiffs against the Amalgamated Society of Railway Servants, which is a Trade Union registered under the Acts, against Mr. Richard Bell, the general secretary, and against the local secretary at Cardiff, "for an injunction to restrain the defendants from watching, or besetting, or causing to be watched, or beset, the Great Western Railway Station at Cardiff, or the works of the plaintiffs, or any of them, or the approaches thereto, or the places of residence, or any places where they might happen to be, of any workman employed, or proposing to work for, the plaintiffs, for the purpose of persuading or otherwise preventing persons from working for the plaintiffs, or for any purpose except merely to obtain or communicate information and from procuring any persons who had or might enter into any contracts with the plaintiffs to commit a breach of such contracts." It was found that they were liable.

14. But you have only at this moment given us the claim for the injunction?—That was the action brought.

15. Then there must have been counts for damages, surely, or they could not have tried the case?—They claimed for an injunction and other relief, which would include a claim for damage.

16. (*Mr. Cohen.*) No damages were then assessed?—No.

17. (*Chairman.*) But I suppose the damages came under "other relief." There had not to be another

action started?—No. The claim was for an injunction and other relief, and that includes damages. As the Master of the Rolls (A. L. Smith) at the beginning of his judgment says, "This is an action brought by the Taff Vale Railway Company against a Trade Union in its registered name of 'The Amalgamated Society of Railway Servants,' and against Richard Bell and James Holmes, officers of the union, for unlawful picketing, and it claims an injunction and other relief, which would include a claim for damages."

18. (*Mr. Cohen.*) There were no damages awarded at that stage?—Not at the time.

19. (*Chairman.*) There were eventually?—Yes. Mr. Justice Farwell held that the unions could be sued, and he did it upon the broad ground that they had certain rights of suing given them by the Acts, and that, therefore, there attached the correlative right of others to sue them. The Court of Appeal, consisting of the Master of the Rolls (A. L. Smith), and Lords Justices Collins and Stirling, reversed that decision of Mr. Justice Farwell, the injunction was dissolved and the appeal allowed. Upon appeal to the House of Lords, the decision of Mr. Justice Farwell was restored, and the short ground upon which that decision was given, in the words of Lord Halsbury, was, "If the Legislature has created a thing which can own property, which can employ servants, and which can inflict injury, it must be taken, I think, to have impliedly given the power to make it suable in a court of law for injuries purposely done by its authority and procurement." That decision came as a new thing to many—to all I may say—of the Trade Unions, because an opinion had grown up that the Trade Unions could neither sue nor be sued. There had been one or two cases in which Trade Unions had been before the courts, but no particular attention had been given to the courts dealing with the Trade Unions. I refer to a case in 1892, *Pink v. The Federation of Trades Unions* (67 L.T. 258), in which an injunction was made perpetual against the Federation, with costs, to restrain the publication of a circular accusing the plaintiffs of boycotting lightermen. But, in point of fact, the defendants, the Federation, although the injunction was made perpetual against them with costs, did not appear; they took no notice of it.

20. It was a case *ex parte*, in absence?—Yes.

21. (*Mr. Sidney Webb.*) And it is not quite clear that that was a Trades Union case; but it does not much matter?—It is called the Federation of Trades Unions; they would come within the definition of a Trade Union in the Act. However, they did not appear, and no notice was taken of it.

22. (*Mr. Cohen.*) The question was not noticed at all then, whether a Trade Union could be sued?—No, it was not argued.

23. Or noticed in the judgment I mean?—No notice of that kind was taken at all. In 1894 there occurred the case of *Temperton v. Russell*, which afterwards came up on another matter, but on this point of suing is reported in [1893] 1 Q.B., 435. There the writ was ordered to be amended as not being under Order XVI. Rule 9. The head note is this: "Order XVI., Rule 9, provides that where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorised by the court or a judge to defend in such cause or matter, on behalf or for the benefit of all persons so interested. The writ of summons in an action stated that the plaintiff sued the defendants, who were respectively the officers of several trade unions, as well as on their own behalf as on behalf of, and representing all the members of each of the societies to which they respectively belonged. The action was for maliciously and wrongfully procuring and coercing persons who had entered into contracts with the plaintiff to break such contracts and to refuse to enter into other contracts with the plaintiff, and for conspiracy to injure the plaintiff. The plaintiff claimed damages and an injunction: *Held*, affirming the decision of a Divisional Court, that the case was not within Order XVI., Rule 9, and the writ must be amended by striking out the words indicating that the defendants were sued in a representative capacity. Order XVI. Rule 9, applies only to persons who have or claim some proprietary right, which they are asserting or defending in the cause or matter." Lord Justice Lindley said, "The question

really turns on the meaning of the words 'having the same interest in one cause or matter.' This expression only extends, we think, to persons who have or claim some beneficial proprietary right which they are asserting or defending in the cause or matter. Who are the persons against whom he seeks redress? They are a number of persons belonging to various trade unions acting more or less in concert; but the persons assumed to be represented by the officers of those trade unions have no such interest as is contemplated by the rule as above explained.' That case did not come up upon that point before any Court for a long while; but that the opinion of the public upon it was that a trade union could not be sued appears from the fifth and final report of the Royal Commission on Labour in the year 1894. At page 40 it is said, "It must be observed that although the Act of 1875 exempts conduct which does not amount to intimidation in the sense which the courts give to intimidation, from penal consequences, it leaves untouched the right, if any, of persons injured by such conduct to bring civil actions to recover damages. It may be true that even where the employer or non-unionist workman may have the civil remedy referred to, that remedy may yet in many cases be practically valueless. Although the discharge of the workman from employment may be due to decisions taken by a trade union, and consequent action by some official on its behalf, the trade union cannot be sued, nor can damages be recovered from its collective funds. In the recent case of *Temperton v. Russell* and others, the plaintiff, who carried on business as a builder, sued the officers of three trade unions, and of the joint Committee of these trade unions, 'as well on their own behalf as on behalf of and representing all the members of each of the said societies and joint committee to which they severally belong' for damages, and also for an injunction to restrain the trade unions and joint committee from molesting him in the conduct of his business. It was held by the Lord Chief Justice and Mr. Justice Hawkins that the plaintiff was not entitled to sue the trade union officers, who were defendants in their representative character, but only as individuals, and this decision was confirmed by the Court of Appeal. Damages were subsequently recovered in this action against the officials of the three trade unions, and an injunction obtained restraining the defendants. This case shows that persons injured by the action of trade unions and their agents can only proceed against the agents personally, and whilst they may obtain verdicts against them, they may, in many easily conceivable cases, be unable to recover adequate damages. This difficulty is one which illustrates the inconvenience which may be caused by the existence of associations having, as a matter of fact, very real corporate existence and modes of action but no legal personality corresponding thereto."

24. That is accentuated at page 115?—Yes, at pages 115, 116, and 117, where the majority of the Commission are arguing that the right of incorporation should be granted, they speak of the impossibility of suing; and the same thing occurs at page 146, where the minority strongly object to that, and give as their reason the following: "One proposal made to the Commission by several witnesses appears to us open to the gravest objection. This suggestion is that it would be desirable to make trade unions liable to be sued by any person who had a grievance against the action of their officers or agents. To expose the large amalgamated societies of the country, with their accumulated funds, sometimes reaching a quarter of a million sterling, to be sued for damages by any employer in any part of the country, or by any discontented member or non-unionist, for the action of some branch secretary or delegate would be a great injustice. If every trade union were liable to be perpetually harassed by actions at law on account of the doings of individual members; if trade union funds were to be depleted by lawyers' fees and costs, if not even by damages or fines, it would go far to make trade unionism impossible for any but the most prosperous and experienced artisans. The present freedom of trade unions from any interference by the courts of law, anomalous as it may appear to lawyers, was, after prolonged struggle and Parliamentary agitation, conceded in 1871, and finally became law in 1876. Any attempt to revoke this hardly won charter of trade union freedom, or in any way to tamper with the purely voluntary character of their associations would in our opinion provoke the most embittered resistance from the whole

body of trade unionists, and would, we think, be undesirable from every point of view." That statement by the minority in 1894 I cite for the purpose of showing what the opinion in 1894 was upon this question of suing and being sued. Then in 1895 the point came up again in *Trollope and Sons v. the London Building Trades Federation*, (72 L.T. 342; 11 *Times* L.R. 228). In that case the Court of Appeal affirmed an injunction restraining a libel by a trade union, but the trade union had entered no appearance, so it went in default of appearance, before Mr. Justice Kekewich, and that judgment of his was affirmed. Once again it is the case of a union not appearing, and no notice being taken. Then in 1899 in *Lyons v. Wilkins* [1899] 1 Ch. 255, the name of the trades union was struck out by Mr. Justice Byrne, but the point was not argued whether they were liable or not. So that really it came up, first of all, in the Taff Vale case, and about the same time, February, 1901, in the case of *Linaker v. Pülcher*, (17 *Times* L.R. 256). There a trade union organ was registered as a newspaper, in the name of the Trustees of the Amalgamated Society of Railway Servants, and in that paper there was a libel upon a man, who sued them and was awarded damages by a jury against the trustees, the judge holding that the plaintiff was entitled to be indemnified out of the funds of the trade union.

25. In what year was that?—That was in 1901.

26. (Chairman.) The same time as the Taff Vale case?—Yes, but after the judgment.

27. (Mr. Sidney Webb.) And the same union?—Yes. So that from 1894 to 1901 the point had really not been up to be argued, but the belief evidently was that trade unions could not be sued. The first doubt that was thrown upon that judgment in *Temperton v. Russell* occurred in 1901 in the case of the *Duke of Bedford v. Ellis*, [1901] A.C. 1, which is mentioned again in the Taff Vale case, and I have got the quotation from the Taff Vale case by Lord Macnaghten [1901] A.C. 439, where Lord Macnaghten says, "*Temperton v. Russell*, as I said in *Duke of Bedford v. Ellis*, was an absurd case. The persons there selected as representatives of the various unions intended to be sued were selected in defiance of all rule and principle. They were not the managers of the union; they had no control over it or over its funds. They represented nobody but themselves. Their names seem to have been taken at random for the purpose, I suppose, of spreading a general sense of insecurity among the unions, who ought to have been sued, if sued at all, either in their registered name, if that be permissible, or by their proper officers—the members of their executive committees and their trustees." Of course the Taff Vale case has been followed in other cases, since, such as the *Glamorgan Coal Company Limited v. South Wales Miners' Federation*, 1902 (18 *Times* L.R. 810), *Giblan v. The National Amalgamated Labourers' Union of Great Britain*, 1902 (18 *Times* L.R. 500), and in the recent case this year of the *Denaby and Cadeby Collieries Companies*, of which there is no law report until the case has been before the Court of Appeal, but the daily reports are to be found in *The Times* newspaper of Jan. 28, 29, 30, Feb. 2, 3, 4, 5, 6, 9, 10, 15.

28. (Chairman.) Now, I should like to ask you a question here, because I want, if possible, to disentangle the substance of this thing from that amount of form which is necessarily wrapped up in any particular system of jurisprudence, but which would be quite different, say, in my own country—I mean the question of the way in which you bring a person into court, as opposed to the question really of the merits, in the sense, I mean, of whom you can make liable. I noticed the sentence you have just read from Lord Macnaghten, that the proper way would have been to sue either in the incorporated name, if it was permissible, or in the name of the proper officers or trustees. Am I right in thinking that the Taff Vale case seems to have been the first in which they actually used the registered name?—It was the first case, I think, in which any Association sued by its registered name appeared. There were those two libel cases in which apparently they did not appear.

29. I will take back the word "registered" if it is wrong. I used it simply because Lord Macnaghten used it; but what I want to get at is the difference between the descriptive name of the Society, who may, or may not, be registered, and the question of taking up the surname

Mr. G. R.
Askwith.

14 Mar. 1904

Mr. G. R.
Askwith.

14 Mar. 1904.

of a single officer or trustee?—I am unable to say whether those two societies, the London Building Trades Federation and the Federation of Trades Unions, who had these cases against them, were registered or not.

30. But it comes to this, does it not, that the Taff Vale case was the first litigated case in which there was any attempt to proceed against what I call the descriptive name, which will do as well as any other expression, I think?—Exactly.

31. Upon that I should like to ask you this—asking you as an English lawyer—in Trollope's case it was against some association, and they got an injunction by default; that is so, is it not?—Yes, the Trade Union did not enter an appearance.

32. No, but at any rate it seems to have been presented against the trades union under its descriptive name, and an injunction was granted by default?—Yes.

33. I want to ask you as an English lawyer—supposing they had gone on publishing the libel, how would you have worked out the injunction, when the injunction had been granted against the descriptive name?—At that time?

34. I mean that the people who asked for the injunction must have had some theory, at any rate, as to what they would do with it when they got it, if it did not stop the people issuing the libel at once?—I presume they would have tried to attach the funds if there were damages.

35. (Mr. Cohen.) A sequestration of funds where there was incorporation might be asked?—It is a difficult thing to say.

36. (Chairman.) I do not wonder it was a puzzle; it is really part of the object of my question. You tell us that you do not know as a matter of fact whether they were registered or not?—No, I do not know whether the cases themselves would say whether they were registered; I have not the reports here.

37. But speaking for a moment from my own memory of the judgment, there is nothing in the Taff Vale case which turns upon registration *per se*; does it, or does it not?—What the Taff Vale case must be taken to decide, I think, is, that a registered trade union is liable; but there are certain *dicta* to which I am going to allude later on, the effect of which, if they are the law, raises a very important point with regard to unregistered trade unions being sued.

38. (Mr. Cohen.) But the judgment of Mr. Justice Farwell and the opinion of the Lord Chancellor were limited entirely to registered trade unions?—That is so.

39. And the *ratio decidendi* was founded entirely upon that consideration, that a legal entity was created by the registration?—These are the *dicta* with regard to unregistered Trade Unions. Lord Justice Lindley said, "I have myself no doubt whatever that if the trade union could not be sued in this case in its registered name, some of its members (namely, its Executive Committee) could be sued on behalf of themselves and the other members of the society, and an injunction and judgment for damages could be obtained in a proper case in an action so framed." Lord Macnaghten on the same occasion said, "I have no doubt whatever that a trade union, whether registered or unregistered, may be sued in a representative action if the persons selected as defendants be persons who, from their position, may be taken fairly to represent the body." Then also Lord Justice Vaughan Williams is reported, *Glamorgan Coal Company, Limited, and others v. the South Wales Miners' Federation and others* (19 Times L. R. 1903, p. 707), to have said that this Federation, "according to the decision in the Taff Vale case, is a thing which can own property, and which can employ servants, and which can inflict injury, and to which the Legislature has impliedly given the power to sue, and on which the Legislature has imposed the liability to be sued for injuries purposely done by its authority and procurement;" that is on the point of suing.

40. (Chairman.) That is a registered company?—Yes, that is a registered company; that is on the point of suing as the correlative to being sued. I am taking two statements together, first the statement that unregistered unions can be sued or sue, and also what actually was not in the Taff Vale judgment, the statement that registered unions can sue. And Lord Shand, also in the Taff Vale case, said: "A registered trade union has an exclusive right to the name in which it is registered, a right to hold a limited amount of real estate and unlimited personal estate, for its own use

and benefit, and the benefit of its members, the power of acting by its agents and trustees, and is liable to be sued for penalties, as it appears to me, in the society's name. I am clearly of opinion that these and the provisions generally of the statutes imply a liability on the society, to be sued in its trade union name, and a privilege of thus suing." Neither of those two points of these unregistered unions being sued and suing, and of registered unions suing as well as being sued, were necessary to the decision in the Taff Vale case, but they are both alluded to by the judges in it.

41. (Mr. Cohen.) But there is no privilege conferred by the Act of 1871, I think, upon a registered trade union, is there? They are merely declared not to be unlawful associations, but there is no privilege conferred at all?—No, I think not.

42. (Chairman.) Do you find, prior to the report of 1894, a discussion upon the subject of what powers of suing and being sued ought to appertain to trade unions?—Going back to the year 1867, I find that, in the Minority Report of the Royal Commission of that year, by Mr. Frederick Harrison and the late Judge Hughes, they dealt with the question in the following manner:—"A very serious question arises here as to whether legislation of a far more comprehensive character is not needed to place trade unions on a full legal footing; whether, in fact, a complete statute should not be enacted analogous to the provisions of the Friendly Societies Act, and the Joint Stock Companies Acts, and the like, by means of which uniform rules would be framed for the formation, management, and dissolution of these associations, and by which they should be enabled to sue and be sued by their members, to recover from members their contribution or fines, and to be made liable to members for the benefits assured. We are inclined to believe that the time has not yet come, if it ever will come, for any such statute. The amount of feeling which this question arouses on both sides, the great irritation of those who have suffered by trade unions and the extreme jealousy on the part of their members of State interference would, we are convinced, render the attempt to pass such a measure impracticable. We are far from seeing any certainty that such an Act is even ultimately desirable. Trade unions are essentially clubs, and not trading companies, and we think that the degree of regulation possible in the case of the latter is not possible in the case of the former. All questions of crime apart, the objects at which they aim, the rights which they claim, and the liabilities which they incur, are for the most part, it seems to us, such as Courts of law should neither enforce nor modify, nor annul. They should rest entirely on consent." When the Bill of 1871 was brought in, Mr. Bruce, then Home Secretary, quoted that paragraph of the Minority Report, and used these words: "It is in accordance with that opinion that the measure of the Government has been framed." So that the Government, in introducing the Bill, evidently took the Report of the Minority, which Report opposed the idea of trade unions being sued. Also after the Bill had been passed, in 1875, at the Trade Union Congress at Glasgow, a motion was brought forward that trade unions should be incorporated and have the power of suing and being sued. That was most strongly opposed, and there were only three people in favour of it. At the Trade Union Congress, Mr. George Howell, who was secretary of the Parliamentary Committee, said, "Their Scotch friends seemed to be rather fond of law; in England they endeavoured, as far as possible, to keep out of the Law Courts. It might seem a simple thing that societies should have the right of suing and being sued, but it involved trade questions, and trade rules, which were often so complicated that Courts of Justice could not possibly deal with them." And then Mr. Kennedy "considered that the right to sue and be sued would give to unscrupulous persons the power to drag societies from Court to Court, perhaps at the instigation and expense of employers, until the funds were completely drained and the societies split up. By introducing such a clause, they would be breaking a stick to beat their own back," and Mr. George Odger was strongly opposed to the principle embodied in the amendment, holding that it would give rise to vexatious prosecutions and endless confusion. It would (he said) be productive of no good, while it would embarrass the societies in every direction.

43. May I take it that the earlier history of trade unionism and the law appertaining thereto was all really connected with what I may call the struggle for existence. I mean to say that the first and initial difficulty of a trade union was to exist without being struck at as an illegal

body, was it not?—Quite so. Of course the first great object was to get rid of the criminal responsibility.

44. That is what I mean; and therefore do you think that these considerations of civil liability which we are now thinking of, did not really emerge till the first great struggle was over?—But they were all considered in 1894.

45. But 1894 is coming to very modern days? A moment ago you were speaking of what was being thought of in 1875?—Yes, quite so.

46. But you would look upon that as the correct view, would you not?—Yes, I think so.

47. Then would it also be correct to say that after their charter of existence, so to speak, had been vindicated as against the criminal law, the first question of civil liability which emerged was rather in regard to the relations of themselves to their own members than the relations of them to outsiders who were not members of a trade union at all?—I think that was the most important matter that they had in their minds, but I think that then so far as these statements go, and in my opinion most certainly now, the trades unions and working men generally have got a great objection to the law courts and to having a great deal of litigation thrust upon them.

48. But then you see when you say that they have an objection to the law courts, that may be of two kinds. We might all have an objection to the law courts if it meant that we were to be allowed to do what we liked and nobody was to stop us; but on the other hand you might say that it was quite a fair desire that in creating a certain body you should create it upon the condition that so far as all internal management was concerned the law courts were not to be invoked. It is very much analogous, is it not, to the clause in a partnership deed which binds you to refer all partnership disputes to arbitration and ousts the jurisdiction of the law courts altogether?—Yes. Of course arbitration probably might come in a great deal more supposing the example of the Friendly Societies Acts were more followed; but I may point out that in 1894 this minority Report, at page 146, uses these words: "If every trade union were liable to be perpetually harassed by actions at law on account of the doings of individual members; if trade union funds were to be depleted by lawyers' fees and costs, if not even by damages or fines, it would go far to make trade unionism impossible for any but the most prosperous and experienced artisans." That is what I meant by an objection to the law courts.

49. I am not doubting that the idea had come well to the front by 1894; I am only throwing out these as suggestions, not as my considered opinions of course. I am rather asking you this:—Reading the Act of 1871, supposing you had never seen it before, would it not be very difficult to conclude that it really dealt, in any way, with the civil liability to outside people. It dealt with the criminal matter and it also dealt with the courts?—I quite agree.

50. And the question of restraining the action of the members?—Taking the Act of 1871 as a separate entity, as it were by itself, that seems to me to be the principal effect of it upon one's mind.

51. (*Mr. Cohen.*) May I first ask this question—I think it points to the same conclusion. Is it not true that the Trade Union Act 1871 had mainly two objects in view? One was to legalise trades unions, that is to say, to prevent them from being considered criminal associations, and to enable them, if registered, to hold property and acquire rights and legal protection in respect of that property; and the other object was to leave the control of the affairs of the union entirely to its own members without any power given them to invoke the aid of the courts in enforcing the rules regulating the position of the members towards one another or towards the union. Those were the two objects, were they not?—I think, if I may say so, that sums up admirably the effect of the Act of 1871.

52. So that, as our Chairman has said, there are no provisions as regards outsiders or strangers?—No. On that point of suing which was being mentioned before with regard to unregistered trade unions suing, and which was mentioned in the dictum of Lord Macnaghten, one difficulty that seems, *prima facie* at any rate, to come forward is that according to the Act of 1876, section 16, which amended section 23 of the principal Act and defined a trade union, it is provided that "The term

'trade union' means any combination, whether temporary or permanent, for regulating the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or for imposing restrictive conditions on the conduct of any trade or business, whether such combination would or would not, if the principal Act had not been passed, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade." That definition of a trade union is extremely wide, and under it if unregistered combinations are liable it is difficult to see why such things as employers' associations, joint wages committees, sliding scale committees, or conciliation boards are not trade unions as combinations for regulating the relations or for imposing restrictive conditions within the meaning of that section, and so liable, under the Taff Vale decision, to be sued or to sue.

53. (*Chairman.*) In your opinion as a lawyer, is the *ratio* of the Taff Vale decision independent of the question whether the union is a registered one or not?—I think so. Although the decision was restricted to registered unions yet the principle upon which it was decided, apart from the dictum of Lord Macnaghten, would seem to lead to unregistered unions being also liable.

54. (*Mr. Cohen.*) Then may I ask you what is the *ratio decidendi* in the Taff Vale case taking the Lord Chancellor's judgment or Mr. Justice Farwell's?—I think I quoted Lord Halsbury's words, in which he said "If the legislature has created a thing which can own property, which can employ servants, and which can inflict injury, it must be taken I think to have impliedly given the power to make it suable in a court of law for injuries purposely done by its authority and procurement." In reading the judgment that seemed to me to sum it up as clearly as anything.

55. In what way has the Act of 1871 created such an entity as regards unregistered trade unions? That is the real question, is it not?—You are confining it to the Act of 1871?

56. Any other Act you like to mention?—Or as an unregistered body?

57. I mean in what way has the Legislature made an unregistered trade union an entity such as this described by the Lord Chancellor and by Mr. Justice Farwell?—I think that registration was added to trade unions as an additional privilege, but that Section 2 of the Act of 1871 shows that the restraint of trade is not to render trade unions unlawful, and gives them, whether registered or unregistered, the position of combinations which are permitted by law. Of course there are certain sections in these Acts which make it still more difficult to see how the Acts can avoid being amended if the Taff Vale judgment is to stand. For instance, Section 4 of the Act of 1871 is one upon which I shall speak later, but upon this point of suing it says specifically that certain legal proceedings shall not be enforced as between members of a trade union. Now a trade union under the Taff Vale decision, at any rate a registered trade union under that decision, would be liable for damages supposing that that union caused a workman to break his contract with his employer, but Section 4 would prevent the union from getting damages, supposing a contract was broken with the union, supposing the workman ceased to be a member of the union and the union desired to obtain damages from him or to get money. The correlative right to sue by employees as against the union does not seem to exist, because it is expressly forbidden by the Trade Unions Act.

58. (*Chairman.*) I am not sure that I follow you. Is that correlative?—Perhaps correlative is the wrong word to use, but freedom of suing and being sued exists more for the employer than it does for the workman with that section.

59. Of course if you mean by freedom that the one is debarred from nothing and the other is by terms debarred from certain things, that is true, but so far as one thing is the correlative of the other, there is nothing in Section 4 to prevent the union suing an employer, an outsider?—But then it will have to sue him for the breach of an agreement which cannot be entertained in a court of law.

60. He could sue him for that, and he could also surely sue him in this case, could he not? We need not use the

Mr. G. B. Askwith.

14 Mar. 1904.

Mr. G. R.
Askwith.
14 Mar. 1904.

word employer, because the point is not so much "employer" as "outsider" here. Supposing the union contracted with an ordinary tradesman for printing, say, there is nothing in Section 4 to prevent them suing him for breach of contract?—No, but supposing a workman broke his contract with the union at the instigation of an employer, he has broken an agreement, with regard to directly enforcing any damages for which no entertainment in a court of law is to be allowed.

61. (Mr. Sidney Webb.) There is another point. Does not the disability go further, that in the event of a trade union being successfully sued for damages for some act committed by either its officers or its members as its agents, the union cannot then recover from those members any proportion of the damages which their wrongful action has caused it to be liable for?—It looks very much as if it was so, in view of what Section 4 lays down.

62. Is there any analogous disability of that sort within your recollection?—No.

63. I mean of a corporate entity being liable and yet not being able to recover from those persons who have caused it to be liable?—I do not know a corporate entity which has been formed in that way by a statute evidently passed with a different view before the makers of it than that which it is now found to hold.

64. (Chairman.) I suppose there is no other instance of a corporate entity which is precluded from invoking the law courts for breach of its own family arrangements?—Not so far as I am aware.

65. (Mr. Sidney Webb.) Then the trade union has no means of preventing its agents from involving it in this liability?—It is no use ordering an agent not to do so and so if he afterwards goes and does it, if it is within the scope of his employment.

66. And he can do it with impunity?—The instance which has been cited I think in various articles is that of a carriage and coachman. If the coachman is driving your carriage to the station and runs into a 'bus, whether you told him not to run into a 'bus or not, you are liable as the principal.

67. But then the employer in that case would theoretically have the right to recover damages from the coachman for having wrongfully let him in for that liability?—Yes.

68. And a trade union is expressly precluded from recovering from its members who are its agents doing wrongful acts, the damages in which they have landed them?—It seems to me that is so, so long as Section 4 of the Act of 1871 lasts.

69. (Chairman.) I suppose the answer to that would be, would it not, in the outsider's mouth to say, "That is your own affair; if you think it for your benefit to have an embargo upon all legal proceedings between you and your own members, it may be for your benefit; but that is not to prejudice me"?—It might be a valid argument from that point of view.

70. (Mr. Cohen.) But are you quite sure that is so? Does the 4th Section preclude any action to recover damages for a tort? I do not think it touches that question?—It is an action for damages for breach of agreement, whether for breach of contract or implied contract, I think. An action for tort?

71. (Chairman.) Let us test that; let us take some other action. Supposing the trade union members went to the headquarters of the society and smashed all the furniture, do you think Section 4 would prevent its recovering at law. That would seem to test it?—No, I do not think it would. If it was damage for breach of implied contract, I think it would come within the section.

72. (Mr. Sidney Webb.) If a trade union member has done something which the House of Lords holds the trade union liable for, does that give the trade union an action for tort against that member?—I think not.

73. (Chairman.) That is an ambiguous phrase when you say "I think not." He might not have it because tort would not lie, or he might not have it because it is barred by the 4th Section. Which do you mean in saying "I think not"?—If it was simply an action for tort, I do not think it would come within the 4th Section. If it was an action for breach of an implied contract, I think it would.

74. Then you think, evidently, that the right which the trade union would *prima facie* have against its own officer who had done something which subjected it to damages from an outsider, would be an action which in some form or other is based upon implied agreement, and therefore is struck at by Section 4?—If it was something done by a person employed upon which you could recover damages from him by an action laid on implied contracts, I think it would come within Section 4.

75. (Sir Godfrey Lushington.) Will you point out the words of Section 4 which deal with that?—"Nothing in this Act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements."

76. Which is the agreement?—It gives the different agreements.

77. But which of them do you rely upon?—No. 4:—"Any agreement made between one trade union and another" is one of them; and No. 1 is, "Any agreement between the members of a trade union as such concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods, transact business, employ or be employed."

78. (Mr. Cohen.) Do you think that comes within it?—I think it goes very close to it.

79. (Chairman.) I suppose there is no case on this point so far as you know?—No.

80. A trade union has never tried to recover from its peccant agent?—Not so far as I am aware.

81. I think we have really got in your general examination to the end of the Taff Vale case, and you have pointed out the various cases in which the question of suing trade unions has been mooted, and you have appealed to the state of public opinion as shown by the Labour Commission prior to the Taff Vale case. Now I think that would lead next to the point dealing with such proposals of change as have been made in your knowledge in the law as settled by the Taff Vale case?—The proposals which were made in 1894 by the Labour Commission tended, according to the report of the majority, towards incorporation, which may be a matter that in view of the Taff Vale decision will come up again.

82. (Mr. Cohen.) Voluntary incorporation?—Voluntary incorporation. The suggestions are made at pages 116 and 117.

83. Is this the majority report, or the minority report?—This is the majority report, beginning at Section 8, page 116: "We think that such an extension of liberty" (that is referring to the preceding paragraph) "if conceded (and in so far as it might be acted upon) would not only result in the better observance for definite periods of agreements with regard to wage-rates, hours of labour, apprenticeship rules, demarcation of work, profit sharing and joint insurance schemes, the undertaking of special works, and other matters, but would also afford a better basis for arbitration in industrial disputes than any which has yet been suggested. In order to enable trade associations to enter into collective, legally binding agreements, with the consequence that in case of breach of contract they would be liable to be sued for damages payable out of their collective funds, it would not be sufficient to repeal Sub-section (4) of Section 4 of the Act of 1871." That is the section we have just been dealing with. "Even if that legislative incapacity were taken away the trade associations would be prevented by their want of legal personality from entering into such agreements or suing or being sued, except with regard to the management of their funds and real estate. It would be necessary that they should acquire by some process of registration, a corporate character sufficient for these purposes. We are anxious to make it clear that we propose nothing of a compulsory character, but that we merely desire that existing or future trade associations should have the liberty, if they desire it, of acquiring a larger legal personality and corporate character than that which they can at present possess. It must be added that even if trade associations were thus clothed with a legal personality, it would be open to them by express stipulation to provide that any special agreement between them should not be enforceable at law. The further powers of incorporation would not be made a condition of the existing registration,

ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

7

but would be offered as powers to be obtained by registration under a new Act. The notice which would, it might be hoped, influence trade associations so to register would be the desire to acquire power to enter into agreements of a more solid and binding kind than heretofore. This might be sufficient in the case of an increasing number of the trade associations. With regard to the collective agreements there should, perhaps, be some statutory conditions attaching to them, for instance (1) That such agreements should specify a period for which they were intended to hold good, and a period for notice of amendment or renewal. (2) That such agreements should be registered in some central, local, public office, and should be open to inspection by the parties concerned. We think that the contracting association should be responsible for observance of the collective agreement by all its members so long as they remained its members, and that every member of an association should, during membership, be held to be under a contract with the association for observance of the collective agreement. The effect of this would be (1) to give to those entering into contracts with an association the right to sue it for damages in case of breach of contract by it or any of its members and (2) to give an association the right to recover damages from those of its members who infringed the collective agreement." Then they sum up at the end "The evidence does not show that public opinion is as yet ripe for the changes in the legal status of trade associations which we have suggested; but we have thought it to be desirable to indicate what may, as it appears to us, ultimately prove to be the most natural and reasonable solution of some at least of the difficulties which have been brought to our notice." That is signed by eight of the Commissioners in 1894.

84. (*Chairman.*) We know that that was particularly objected to by the minority in their Report. They objected to incorporation?—Yes they did so; the great ground of their objection being the litigation that they foresaw; and it is to be noted that the majority say that they do not, in 1894, consider the time is ripe for it.

85. But of course that proposal of incorporation would not in any way obviate the result of the Taff Vale decision; it would only make the recovery of damages all the easier?—It would not obviate the result of the Taff Vale decision, of course. My point is, that in view of the Taff Vale decision and the Taff Vale decision standing, this would enable the trade unions, if they chose, voluntarily to accept incorporation, or such of them as did accept incorporation,

to revise their rules; because I would point out that the idea that a trade union could not sue or be sued existed for thirty years or more, that in consequence the whole of the method of working a trade union has been built up upon an assumption which is now found not to be correct, and consequently their funds have been banked in a way probably different from what they would have been, and their rules are not put with the same strictness as they might have been if they thought that every rule had to be considered with a view to a possible action; and many other ways might be suggested in which events have taken place under one supposition which would not have occurred in exactly the same way if a perfectly different supposition had existed with regard to their legal and financial liability.

86. Now will you come next to more modern proposals of change after the Taff Vale decision, as indicated by the Bills which have been brought before Parliament?—I have here copies of some of the Bills which have been brought before Parliament, which might be put in perhaps as an Appendix. They are: Bill of 1903, Sir Charles Dilke's proposal, another Bill of 1903 by Mr. Shackleton, a Bill of 1904 by Mr. Paulton, and another Bill of 1904, No. 2 Bill, by Sir Charles Dilke. (*Handing in the same. Vide Appendices, pp. 7 and 8.*)

87. And I think there was a draft Bill incorporated at page xxxiv. in the preface of Mr. and Mrs. Webb's book on "Industrial Democracy"?—I have not got that. I have here the proposals taken from *The Times* of September 5th, 1902, giving the various demands of the Trade Union Congress at that date, and a copy of a letter addressed to Members of Parliament by the Trade Union Congress Parliamentary Committee, dated 5th May, 1903, which asks various Members of Parliament for aid with respect to Mr. Shackleton's Bill, and sets forth a statement from the trade unionist point of view of the trade unionist position now under the law and the employer's position now under the law, and remarks upon the trade unions' grievances.

88. Will you put those in, please?—Yes. (*Handing in the same. Vide Appendices, pp. 8 and 9.*)

89. (*Mr. Cohen.*) Do all those Bills contain proposals that the funds of the trade unions shall not be liable?—No; some of these papers do not propose immunity for the trades unions from being sued; and I have understood from conversations with trade unionists that it is not the unanimous desire of all trade unionists that the Taff Vale decision should be upset.

Mr. G. R.
Askwith.

14 Mar. 1904.

SECOND DAY.

Thursday, 17th March, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.
SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

90. (*Chairman.*) I think we were now going to pass to another branch of the subject, namely, the question of what conduct is permissible so far as trades unions are concerned in their proceedings during the course of a strike. Would you tell us something of the history of the law upon the subjects of picketing and persuasion and matters of that class?—I have tried to separate the question of peaceful persuasion under a heading by itself, as that is the phraseology of the Bills in Parliament which propose that that should be permitted. The words, for instance, proposed in Mr. Shackleton's Bill of last year are: "For the purpose of peacefully obtaining or communicating information," and "For the purpose of peacefully persuading any person to work or abstain from working;" (*Vide Appendices, p. 7*),

and he wishes that put in as an alteration of the law. In Sir Charles Dilke's Bill the words according to his suggestion were these: "Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order peaceably to persuade any person to do or abstain from doing that which he has a legal right to do or abstain from doing shall not be deemed a watching or besetting within the meaning of Section 7 of the Conspiracy and Protection of Property Act, 1875." (*Vide Appendices, p. 7*.)

91. That is your reason for treating it under one head, but perhaps you would give us the history of it?—The Act first of all that I take was passed in 1825,

Mr. G. R.
Askwith.

17 Mar. 1904.

Mr. G. R.
Askwith.
17 Mar. 1904.

6 Geo. IV., c. 129, s. 3. That was after the Combination Laws had been repealed; it was important that an Act should be brought in dealing with what workmen might or might not do, and that Act was the result.

92. What is the title of the Act?—"Molestation and Obstruction by Workmen."

93. (Mr. Cohen.) That repealed all the statutes relating to combinations?—Yes.

94. (Chairman.) That Act to which you refer seems to have been the sequel to an Act of the year before?—Quite so.

95. And I suppose replaced that Act of the year before with further additions?—The Act of the year before had swept away all the Combination Laws; it was then found that there were a great many strikes and a great deal of violence in the country at the time, and the Act of 1825 was passed in order to deal with it, which Act remained in force, I think, without any alteration until 1859. Section 3 with regard to peaceful persuasion I particularly wish to read, and it ran as follows: "Or if any person shall by violence to the person or property of another, or by threats or intimidation, or by molesting or in any way obstructing another, force, or endeavour to force any manufacturer or person, carrying on any trade or business, to make an alteration in his mode of regulating, managing, conducting, or carrying on manufacture, trade, or business, or to limit the number of his apprentices, or the number or description of his journeymen, workmen, or servants, any person so offending," etc., shall be liable to so and so. The importance of that is this, that in 1847, in the case of *Regina v. Selsby* which is reported in 5 Cox C.C. 495 n, it was held by Baron Rolfe that merely to persuade people in a peaceful manner that it was to their interest not to work under certain regulations was not a molestation or obstruction within the meaning of this Act.

96. May I ask, is the actual phrase "peaceful persuasion" used in *Regina v. Selsby*?—"Merely to persuade people in a peaceful manner" are the words. In the section itself the words "threats, intimidation, molesting and obstructing" are used without any definition at all, but under those words Baron Rolfe apparently held that this peaceful persuasion was allowable under that Act. Following upon that case an Act was passed in 1859 (22 and 23 Vict. c. 34) also upon molestation by workmen in which the words "peacefully to persuade" were used. The section is as follows; "No workman or other person, whether actually in employment or not, shall, by reason merely of his entering into an agreement with any workmen or other person or persons for the purpose of fixing or endeavouring to fix the rate of wages or remuneration at which they or any of them shall work or by reason of his endeavouring peaceably, and in a reasonable manner, and without threat or intimidation, direct or indirect, to persuade others to cease or abstain from work, in order to obtain the rate of wages or the altered hours of labour so fixed or agreed upon or to be agreed upon, shall be deemed or be guilty of 'molestation' or 'obstruction' within the meaning of the said Act of 6 George IV., and shall not therefore be subject or liable to any prosecution or indictment for conspiracy, provided always that nothing herein contained shall authorise any workman to break or depart from any contract or authorise any attempt to induce any workman to break or depart from any contract." It may be noted that the persuasion referred to in this statute is persuasion by a single person, and that such persuasion is only made legal if exercised in connection with a specified class of trade disputes, namely, those relating to the rate of wages or the hours of labour.

97. On the first point, just let me understand what you mean by that; you say that it only refers to persuasion by a single person. No doubt in the phraseology that is so, but do you mean that if there was persuasion by two people the Act would have no application apart, of course, from the Common Law doctrine of conspiracy, whatever that may be?—I should think the Act would apply certainly.

98. If you think the Act would apply, even if there were two people who did it, what was the purport of your observation pointing out that it only mentions persuasion by one?—I was pointing out that that is the wording of the Act whatever the effect might be.

99. I rather expected you to say that there had been some cases which followed upon that?—No.

100. It is quite obvious that this section does not touch conspiracy as such at all?—No.

101. It is merely a section explaining what is or is not to constitute a statutory offence under the Act 6 George IV.?—It is explanatory to a certain extent of what might be molestation or obstruction under that Act.

102. Would you read the 4th Section of the Act of 1825?—"This Act shall not extend to subject any persons to punishment who shall meet together for the sole purpose of consulting upon and determining the rate of wages or prices, which the persons present at such meeting, or any of them, shall require or demand for his or their work, or the hours or time for which he or they shall work in any manufacture, trade, or business, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices which the parties entering into such agreement, or any of them, shall require or demand for his or their work, or the hours of time for which he or they will work, in any manufacture, trade or business; and that persons so meeting for the purposes aforesaid, or entering into any such agreement as aforesaid, shall not be liable to any prosecution or penalty for so doing." After the Act of 1859 there occurred in 1869 the case of *Regina v. Shepherd*, which is reported in 11 Cox, C.C. 325, and in that case it was held by Mr. Justice Lush "that an agreement to picket premises by means merely amounting to peaceful persuasion was not criminal within the Acts of 1825 and 1859, there being nothing in the nature of force or intimidation."

103. (Mr. Cohen.) I might remind you that that ruling was approved of by the Commissioners who reported in 1875, of whom Lord Chief Justice Cockburn, Sir Montague Smith, and Mr. Russell Gurney were members; they speak of that case *Regina v. Shepherd*, and consider that ruling right?—Yes.

104. (Chairman.) Will you proceed with your next point?—The Act of 1859 was repealed by the Criminal Law Amendment Act, 1871 (34 and 35 Vict. c. 32). Under that Act occurred in 1875 the case of *Regina v. Hibbert* (13 Cox, C.C. 82), in which the Recorder of London, Mr. Russell Gurney, who had been a member of the Commission just alluded to, delivered a charge to the Grand Jury. The whole of the charge is set out in a note to *Lyons v. Wilkins*, [1899] 1 Ch. 262. I do not propose to read it, with the exception of certain passages which were quoted at the time of the passing of the next Act in the House of Commons. Mr. Cross in 1875 quoted this part of it: "Among the acts forbidden by that Act is this: The molesting or obstructing any person by watching or besetting any place, or the approach to such place, where his business is carried on, with a view to coerce such person to alter his mode of carrying on his business. The question was not whether they had endeavoured to cause them to alter their mode, by themselves refusing to work, or by persuading others not to work; that they had a perfect right to do. The more important object that the workers had in view was to inform all-comers, who, for instance, might have been brought by advertisement, of the existence of a strike, and to endeavour to persuade them to join it. All that was lawful so long as it was done peacefully." That was the portion of Russell Gurney's charge which Mr. Cross read in the House of Commons in introducing the Bill, following upon the line taken by the Government in 1871. In expressing what the intention of the Government was with regard to that law of 1871, the Solicitor General (Coleridge) in volume 204 of "Hansard," 3rd Series, page 2,045 had stated: "The Government had endeavoured to limit carefully what acts only should be criminal: what acts should be deemed to constitute 'molestation' and 'obstruction,' and for none others in pursuit of combination should persons be punishable. It might, or might not, be successful legislation, but it was at all events clear and intelligible." In view of subsequent decisions, that is a very curious statement of what the intention of the Act was. Then the Recorder's charge was recited and approved by the Lord Chancellor (Lord Cairns) in the House of Lords in volume 226 of "Hansard," 3rd Series, page 38. The Chancellor also speaks of what the idea of the law was in "Hansard," volume 225, page 1,579, and volume 228, pages 166, 711 and 715. The views of the Chancellor are not unimportant in consequence of what took

place in the House of Commons when the Bill was brought down from the Lords. That was put as occurring on August 7th, 1875, "Hansard" 3rd Series, volume 226, page 715. I have got the quotation exactly of what is said in "Hansard" and these are the words: "Mr. Mundella then moved the insertion of the words 'or peaceably to persuade' the object being that persons who might attempt to persuade a man to leave his employ should not come under the penalty for watching and besetting which was provided for under another section." Amendment put and so on. Then, "Mr. Gathorne Hardy" (he was the Secretary for War at that time) "said it was clear peacefully persuading was not illegal, and there could, therefore, be no object in inserting the words in the Bill." "Sir Henry James said the Lord Chancellor had stated that his new clause had been drawn strictly in accordance with the charge of the right honourable and learned Recorder for the City of London. In that charge peaceable persuasion was not held to be an offence, but heretofore it had been held by many judges to be an offence, and as such had been punished within the limits of the old statute by the magistrates. If the words were not inserted they would be able to do as they had hitherto done, contrary to the intentions of the Legislature, and the old complaint and disaffection would be left where they were. He hoped the House would not leave an old grievance unredressed." "Mr. Hopwood said if the question was so self-evident as the right honourable gentleman the Secretary for War said it was there could be no objection to the insertion of the words." The House divided. Ayes, 41. Noes, 53. Majority 12. It is plain that at that time the Chancellor gave as his opinion that "peaceful persuasion" was intended to be covered by the Act, and that it was so stated in the House of Commons when that division took place, on the ground that it was quite unnecessary to put the words in the Act. After that Act there occurred in 1876 the case of *Regina v. Bauld*, which was reported in 13 Cox, C.C. 282. The case was tried before Baron Huddleston and the defendants were indicted "for having conspired by means of watching and besetting to compel certain workmen to quit their employment." Baron Huddleston in reply to counsel who had argued that if the watching and besetting were merely done for the purpose of persuading the men to quit their employment it would not be illegal, observed that, "The statute allows watching or attending near a place for the purpose of obtaining or communicating information, but this is the only exception." It may be noted in that case that the offence charged was "compelling" and not "persuading." The word "persuading" was not used. The dictum of Baron Huddleston, and I do not know that it amounted to anything more, does not seem to have attracted much attention.

105. (*Mr. Cohen.*) Under what statute was that?—Under the 1875 Act. It may be remarked that the charge of the Recorder of London, although it was itself delivered under the Act of 1871, had been circulated to every magistrate in the country.

106. (*Chairman.*) So far as the judgment in *Regina v. Bauld* goes, seemingly the offence charged there was "compelling"?—The offence charged was "compelling," but the line taken by counsel was that persuasion had occurred and was legal. Baron Huddleston, instead of taking the view that apparently had been intended in the House, remarks that "the statute allows watching or attending near a place for the purpose of obtaining or communicating information, but this is the only exception," that is to say he really hints at what was subsequently decided—that persuasion was not permitted under the statute.

107. That sort of hint may be taken out of it, but I do not see that the judgment necessarily brings that out. I suppose he was defining what the *species facti* of compelling was?—I think he rather intends to say that the only allowance that could be given to persons who watched and attended a place against the chance of conviction for doing so was that they had been there for obtaining or communicating information.

108. Let us be quite clear; what section of the 1875 Act was this upon?—That is upon Section 7 of the Act which I have not yet read, and perhaps it would make it more clear if I read it.

109. Just to make this clear on the notes; is this Section 7 the section on which Mr. Mundella's Amendment was moved?—Yes. The section says: "Every

person who with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or to abstain from doing wrongfully and without legal authority" so and so; "watches or besets the house or other place where such other person resides or works or carries on business, or happens to be, or the approach to such house or place shall on conviction, etc., be liable to a penalty or imprisonment." The Act then goes on: "attending at or near the house or place where a person resides or works or carries on business, or happens to be, or the approach to such house or place in order merely to obtain or communicate information, shall not be deemed the watching or besetting within the meaning of this section;" and Baron Huddleston suggests by his dictum (it is nothing more than a dictum), that the only excuse is the attending for the purpose of obtaining or communicating information.

110. Was there a conviction in *Regina v. Bauld*?—I am not sure. I might quote from a book on Trades Union and Trades Union Law by Mr. G. Howell, who in 1895 wrote in regard to Section 7 of the Act of 1875 above cited, that "Peaceful picketing is no longer prohibited, for although the Government refused expressly to legalise 'peaceful persuasion' yet it was distinctly declared that it was legal under the Act." That will be found in the "Handy book of the Labour Laws," page 43. Then again in 1895 there appeared the report of the Labour Commission, and in Part II., where a synopsis of the evidence is given, I have looked at the various pages relating to picketing and I cannot find that any single witness made a suggestion that peaceful persuasion was illegal. The pages in Part II. are 85, 137, 189, 230, 275, and 333. After looking at those I made the note: "Where the different opinions upon the value of this clause at that time are inserted and where nothing is stated to show that peaceful persuasion was deemed to be illegal." There then came the case of *Lyons v. Wilkins* [1896] 1 Ch. 811. That case came up before the Court several times; another place where it is reported is [1899] 1 Ch. 265. The workmen in that case had stood at the doors of shops and given cards to people. Evidence was given that an attempt had been made, peaceably, to persuade other people. This is the head note of what the finding is said to have been in 1899: "Per Lindley M. R. and Chitty L. J. To watch or beset a man's house, with the view to compel him to do, or not to do that which it is lawful for him not to do, or to do, is, unless some reasonable justification for it is consistent with the evidence, a wrongful Act: (1) because it is an offence within Section 7 of the Conspiracy and Protection of Property Act, 1875; and (2) because it is a nuisance at common law for which an action on the case would lie; for such conduct seriously interferes with the ordinary comfort of human existence, and the ordinary enjoyment of the house beset. Proof that the nuisance was caused by an attempt 'peaceably to persuade other people' would afford no defence to such an action: though persons may be peaceably persuaded provided the method employed is not a nuisance. In the expression at the beginning of Section 7 'with a view to compel' the word 'view' does not import motive—it imports purpose. Per Vaughan Williams L. J. The words 'wrongfully and without legal authority' in Section 7 of the Act of 1875, mean unwarranted by law. According to the true meaning of Section 7 all watching and besetting is unlawful, except such as is merely for the purpose of obtaining or communicating information; but the fact that a communication invites workmen to discontinue working as soon as they lawfully may, does not take such communication out of the proviso in Section 7. By the Court: Watching and besetting a person's house with a view to compel some one else is within Section 7, Sub-section 4, for the expression 'such other' in the Sub-section means 'any other.' The decision of the Court of Appeal in *J. Lyons and Sons v. Wilkins* [1896], 1 Ch. 811, approved and held to be in no way over-ruled by *Allen v. Flood* [1898] A C. 1, or by any principle laid down therein." That is the head note of the case when it came before the Court of Appeal for the second time, and sums up very well, I think, what the meaning of the case was.

111. (*Mr. Cohen.*) What they held here was simply this: that picketing, although peaceful, and although not a nuisance, still, if it is done with a view to coercing anybody, is a criminal offence?—The judgment almost goes further than that, as it were; it almost goes to the extent of saying that watching and besetting imports aggression,

Mr. G. R.
Askwith.

17 Mar. 1904.

Mr. G. R.
Askwith.

17 Mar. 1904.

and that it is impossible to watch and beset for the purpose of peaceful persuasion without meaning coercion to the owner or occupier of the premises.

112. (Sir Godfrey Lushington.) Are you of opinion that to constitute the offence of watching and besetting, it is necessary that such watching and besetting should be done with a view to compel any other person to abstain from doing and so on?—Yes, I think so. Under the wording of the Act it seems to me that watching and besetting was to be used as an instrument of persuasion.

113. But there is no doubt is there as to what is the legal interpretation of the section under *Lyons v. Wilkins*?—Under *Lyons v. Wilkins*, certainly not.

114. Your observations hitherto have been addressed to the point whether a different view was previously entertained as to the meaning of the section?—I have been giving the history of peaceful persuasion up to 1896, and then I came to the case of *Lyons v. Wilkins*, after which date there is no doubt whatever that peaceful persuasion has been regarded as illegal.

115. (Mr. Cohen.) If done for the purpose of coercing anybody?—Yes.

116. *Lyons v. Wilkins* has been followed by two other recent cases?—I have got those cases here. Following upon *Lyons v. Wilkins* there was *Charnock v. Court*, [1899] 2 Ch. 35, and *Walters v. Green*, [1899] 2 Ch. 696. Those were both before Mr. Justice Stirling, and the first one was a case in which the facts were as follows: "The thirteen men arrived at Fleetwood by steamer on February 22nd on their way to Halifax, and were met on the landing-stage by two men named Walker and Wadsworth, who had been sent to Fleetwood by the men's union on the previous day. Acting under the instructions of their union Walker and Wadsworth spoke to the Belfast men about the strike, and informed them that if instead of proceeding to Halifax they would go to other places to work, their expenses would be paid and work would be found for them, and they provided several of the men with tickets to Morecambe and Glasgow, and also with money for one night's lodging. These expenses were paid out of a sum provided for the purpose by the secretary of the men's union. The result was that four only of the thirteen men ever undertook work at Halifax." That was held to be an illegal act.

117. (Chairman.) That was held to be an illegal act under what?—Under this Section 7 of the Act of 1875. The decision of the case largely turned upon the words, "Wherever they happen to be" in sub-section 4 of section 7.

118. "Works or carries on business, or happens to be" is, I see, the wording in sub-section 4 of section 7?—In the second report of *Lyons v. Wilkins* it is to be noted that it was said that the first judgment of the Court of Appeal was not affected by anything in *Allen v. Flood*, or by any principle laid down in it, and it is also to be noted with regard to the question of how far any legalisation of peaceful persuasion would be of any use at all, that Lord Justice Lindley brings it in as a nuisance as well, that apart from the section it is quite possible to have an indictment for a nuisance against persons who might be present for the purpose of peaceful persuasion. His words are: "Persons may be peaceably persuaded provided the method employed to persuade is not a nuisance to other people."

119. By "a nuisance to other people" does he mean a nuisance to people in general or to the person who is said to be the persuaded or both?—I should say both.

120. Do I understand this, that you find in *Lyons v. Wilkins* indication in Lord Justice Lindley's judgment that the placing of men at a workman's house continuously for the purpose of persuading him even peaceably to abstain from working with a certain employer might be struck at as a nuisance at common law quite apart from the terms of Section 7 of the Act of 1875?—I think I had better read the Master of the Rolls' exact words. I take it that picketing may be objectionable if it amounts to a private nuisance, if it materially affects the enjoyment and comfort of owner or occupier of the premises; secondly, that picketing may be indictable if it amounts to a public nuisance such as obstruction in the highway, and thirdly, that picketing is indictable and can be restrained by injunction supposing it falls within Section 7 of the Conspiracy and Protection of Property Act. The words in the Master of the Rolls' judgment with regard to it are these: "The truth is that to watch or beset a man's

house with a view to compel him to do or not to do what is lawful for him not to do or to do, is wrongful and without lawful authority, unless some reasonable justification for it is consistent with the evidence. Such conduct seriously interferes with the ordinary comfort of human existence and ordinary enjoyment of the house beset, and such conduct would support an action on the case for a nuisance at common law; see *Bamford v. Turnley* (3 B. & S. 62), *Broder v. Saillard* (2 Ch. D. 692, 701), per *Jessel M. R.* *Walter v. Selfe* (4 DeG. & S. 315) and *Crump v. Lambert* (L. R. 3 Eq. 409)."

121. In the *species facti* of *Lyons v. Wilkins* the master probably could have been sufficiently satisfied with the common law without any help from this at all, because the nuisance such as it was was a nuisance to him in his premises, but of course from the general point of view of masters who want to get at trade unions who are annoying them, the Act of 1875 gives them an enormous help, because let us suppose that the picketing was done at a workman's house, and miles away from the master, there would then be no common law nuisance on which the master could go, and of course the chance of the workman himself being able to restrain by injunction is a rather remote one, whereas if he commits an offence under the Act of 1875—I mean if a trade union commits an offence under the Act of 1875—the master may put the criminal law in motion and get a conviction?—I think that the Act of 1875 affords a speedy remedy which has been taken advantage of in cases like *Lyons v. Wilkins* by the master. The remedy has been followed in several other cases—and a very good instance was the case of *Banister Brothers and Moore Ltd., v. Almond and others*, which was tried in the Palatine Court at Liverpool, but the only report I can get of it is in the *Labour Gazette* of October 1901, pages 298 and 299. In that case the trade union officials in the course of a strike against a firm of cotton manufacturers had taken steps to prevent these employers from obtaining work people. The judge was asked to grant an interim injunction (a speedy method) extending to restrain the defendants from conspiring to persuade or induce persons not to enter into contracts with the plaintiffs. In that case he declined to give the injunction such an extension. It was an attempted use made of the speedy action which this section permits.

122. (Mr. Cohen.) Was there any besetting in that case?—Yes, I think so. One point of bringing up the question of nuisance is that even assuming that peaceful persuasion were authorised and that a new sub-section to this Act were inserted allowing peaceful persuasion, it does not necessarily follow that that prevents persons taking action against them for a nuisance for peaceful persuasion, and in addition to possible actions against them it gives a power of remedy if peaceful persuasion purports to take place, and goes beyond peaceful persuasion, in an injunction against them.

123. (Chairman.) Will you proceed to your next point?—Picketing under this question of peaceful persuasion is also alluded to in the judgments in the *Taff Vale* case.

124. (Sir William Lewis.) There it was not so much at the houses as at the railway stations?—Watching and guarding railway stations, yes.

125. (Chairman.) Is that the end of what you were to say about "peaceful persuasion" *per se*?—Yes, I think so.

126. There is the question next of what may or may not be done in concert as compared with the same action by an individual?—That point really embraces the introduction of what have been popularly called the Conspiracy cases. Starting with the *Magul* case, 1889 (23 Q.B.D. 698), and going on with *Allen v. Flood* [1898] A.C. 1, *Quinn v. Leatham* [1901] A.C. 495, with the other cases following from them, I might note before dealing with the English cases that as far as I can see from examining the American cases in America the doctrines of *Quinn v. Leatham* have been carried almost to a greater extent than in England, and there have been a very large number of what one might call boycotting cases there, so that use has been made of the English authorities and they have been discussed at great length in America.

127. (Mr. Cohen.) There has been no case in the Supreme Court of the United States on the subject; I was told that by the highest American authority. I was also told that the decisions in America were so conflicting

that they would not help us at all. There are two volumes of American decisions edited by Mr. Eddy, and if you look at those decisions you will see that they are so very conflicting that the American decisions clearly do not throw any useful light on the subject. I asked a very eminent American lawyer the other day if there was any case in the Supreme Court in the United States on the subject, and he said there had not been any?—Of course a large number of the different States differ, but I have taken shortly (if any reference is desired to be made to them) the references from the American State Reports where they sum up at the end of the leading cases what the effects of the other decisions are. There are three cases here that I have notes of. The first one is the case of *Boutwell v. Marr*, 1899 (76 Am. St. Reps. 753), and the note there is this: "A conspiracy as commonly understood is an agreement or combination by two or more persons to do an unlawful act, or to do a lawful act by unlawful or criminal means," and they refer to a note to *Macaulay v. Tierney*, 1895 (61 Am. St. Reps. 779); *Longshore Printing Company v. Howell*, 1894 (46 Am. St. Reps. 640):—"This definition has been extended, by modern decisions, to include combinations to effect acts injurious if carried out by the concerted action of many," and they refer to *Longshore Printing Company v. Howell* and to *Doremus v. Hennessy*, 1898 (68 Am. St. Reps. 210), for the notes on that. The point of this definition having been extended "to effect acts injurious if carried out by the concerted action of many," which is really on account of what has been called the conspiracy to injure, which has been so much discussed since *Quinn v. Leatham*, refers one to the notes on those two cases, and the notes are these: "Notes to *Longshore Printing Company v. Howell*, 1894 (46 Am. St. Reps. 657).": There the note is as follows: "This definition 'a conspiracy as commonly understood is an agreement or combination by two or more persons to do an unlawful act, or to do a lawful act by unlawful or criminal means' would probably include few of the acts popularly known as 'boycotting,' but the tendency of modern decisions seems to be to extend this definition and to include combinations to effect acts indifferent in themselves but injurious to society if carried out by the concerted action of many"; and then they refer to various cases as showing how the definition has been extended. Particularly I might refer to *Crump v. Commonwealth*, 1888 (10 Am. St. Reps. 895), where a very elaborate synopsis of different cases is given, and mention is made (p. 903) of the judgment of Beasley (C. J.) in *State v. Donaldson* (32 N.J.L. 151; 90 Am. Dec. 649). There the judgment of Beasley (C. J.) is very strong as upholding the idea of a conspiracy to injure. The next is the notes to *Doremus v. Hennessy*, 1898 (68 Am. St. Reps. 210) and the note there is: "At common law a conspiracy cannot be made the subject of a civil action, although damages result, unless something is done which without the conspiracy would give a right of action. The true test as to whether such action lies is whether or not the act accomplished after the conspiracy is formed is in itself actionable." This is on the point of the civil action; the others were criminal in point of fact, but it is said in the notes to *Doremus v. Hennessy* that a civil action will not lie although damages result unless something is done which without the conspiracy would give a right of action.

128. There are American cases decided to the contrary also?—They cite *Delt v. Winfree*, 1890 (26 Am. St. Reps. 755), which was a Texas case, and in that case the facts were that a man induced third persons not to sell to him, it not appearing that their interference with his business was to serve any legitimate purpose of his own but that it was done wantonly and maliciously, causing, as was intended, pecuniary injury to him: *held*, that no action could lie. Then Cowley on "Torts," Second Edition 143 says: "The general rule is that a conspiracy cannot be made the subject of a civil action unless something is done which without the conspiracy would give the right of action." I do not know whether it is worth while to make a reference to them, but those are the important American cases on these questions. That would be quite different on one view of the case from what would be considered to be the law here with regard to a civil action.

129. In the *Mogul* case it was an action for conspiracy and nothing else?—Yes, it was an action for conspiracy.

130. And Lord Bowen laid down there that in order to maintain an action you must prove that the conspiracy is criminal?—He implies it. Before starting upon these cases at all I think it might be useful for the Commissioners to have their attention called at any rate to *dicta* of the Lord Chancellor with regard to the effects of these cases, and I give a reference to them. One is in *Allen v. Flood*, [1898] A.C. 76, where he says, "My Lords, I must for my own part disclaim the idea that you can get rid of observations such as these in the learned judges' judgment by saying that they are obiter" (he is referring to the *Mogul* case). "Of course one is familiar with the observation that such and such an opinion expressed by a learned judge was not necessary for the decision of the case. But where a distinction is being drawn between what is lawful and what is not, and where, as in this case, the observations form part of the reasoning by which the conclusion is arrived at, it appears to me that whichever way the decision may be, one part of the judgment is as much an authoritative exposition of the law as the other." The other dictum is in *Quinn v. Leatham*, [1901] A.C. 506, where he makes this statement: "Before discussing the case of *Allen v. Flood* and what was decided therein, there are two observations of a general character which I wish to make, and one is to repeat what I have very often said before, that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found. The other is that a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all. My Lords, I think the application of these two propositions renders the decision of this case perfectly plain, notwithstanding the decision of the case of *Allen v. Flood*."

Mr. G. R.
Askwith.

17 Mar. 1904.

THIRD DAY.

Monday, 21st March, 1904.

PRESENT:

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*)

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

Mr. G. R.
Askwith.
21 Mar. 1904.

130a. (*Chairman.*) Do you desire to make an observation now?—(*Witness.*) Yes, with regard to a statement in respect of employers' associations which one of the Commissioners desired to have particulars of, if the same were available, I am informed that there is no statistical information with regard to funds. There is a table giving a general summary for 1902, based on special returns supplied to the Board of Trade with regard to the numbers of associations of employers in the different trades:—Building trades, 414; mining and quarrying, thirty-six; metal, engineering and shipbuilding trades, ninety-eight; textile trades, fifty; clothing, trades, sixty-six; bakers and confectioners, forty-one; printing and kindred trades, forty-one, and all others 100; but those are only the numbers, not the funds. The reason is this: The trade unions when registered are required by law to furnish returns to the office of the Registrar of Friendly Societies. Both registered and unregistered unions also furnish the Department with certain information, but this is done wholly as a matter of grace. Employers' associations are not required by law to furnish any returns except in so far as one or two of them are public companies. The best of them print annual reports for the use of their members. Some of these reports have been sent to the Department by request and also voluntarily. They do not, however, reveal the real strength of the associations; and any statistics based on such information would be most misleading. There is an important distinction between trade union funds and the resources of employers. Trade unionists, being mostly poor men, are compelled to accumulate funds very slowly by small contributions. An employers' association, on the other hand, might in an hour or two increase its ordinary balance of funds by many thousands of pounds if it became necessary to do so. That I am informed is the pith of the whole matter, that even at the end of a strike the employers' association might have far more funds in its coffers than in ordinary times; whereas with regard to the men, the opposite would be generally the fact. I will put in this table. (*Handing in the same. Vide Appendices, p. 10.*)

131. (*Mr. Sidney Webb.*) I understand that employers' associations come within the definition of a trade union in the Trade Unions' Act, do they not?—I think so.

132. But they are not required to furnish the returns that trade unions are required to furnish?—I understand from this memorandum that that would appear to be so. Trade unions, when registered, it says, are required by law to furnish returns to the office of the Registrar of Friendly Societies.

133. Is not an employers' association a registered trade union under the Act?—I should like to examine the section of the Act under which that return has to be made to the Registrar of Friendly Societies before giving a definite answer.

134. (*Mr. Cohen.*) It is only a registered trade union that is required to make a return?—Only a registered trade union, apparently.

135. Are Employers' Associations registered?—No, I think not.

136. (*Chairman.*) I think when we last parted you had just finished quoting some observations of Lord Halsbury which he made in *Quinn v. Leatham* and *Allen v. Flood*?—

There were certain dicta of Lord Halsbury that I was quoting in *Allen v. Flood*, and in *Quinn v. Leatham*. Of course the dictum in *Allen v. Flood* was made in the stress of argument in controverting Lord Herschell's remarks upon the Mogul case, and the others were purely general remarks which might have been couched in a different form if they were being developed or spoken to a popular audience; but as general remarks they serve, with regard to these cases, to put some ideas into the mind. If the actual decisions of these cases alone are taken, possibly some general rules may be deduced from them. If the decisions and the *obiter dicta* are all to be taken together as making the law, there cannot be much doubt that there is much entanglement which must at least be a great difficulty for even a clever man after study to attempt to work out, and much more so for any employer in the strain of a lock-out or a workman in the conduct of a strike.

137. Of course in considering the law in any of these cases it is obviously necessary always to keep in view the theory of the facts on which the judgment was founded?—That in several of the cases comes out as a most important point. I might give shortly one or two instances. For instance, if we take the Mogul case, in Lord Justice Bowen's judgment it appears that he begins his judgment with this very mild remark, at page 611, 1889 (23 Q.B.D.); he says: "For the purposes of the present case we are to assume some possible damage to the plaintiffs." That is all he says about the damage. Then when that case came up to the House of Lords, [1892] A.C., Lord Halsbury says, at page 36: "After a most careful study of the evidence in this case I have been unable to discover anything done by the members of the associated body of traders other than an offer of reduced freights to persons who would deal exclusively with them; and if this is unlawful it seems to me that the greater part of commercial dealings, where there is rivalry in trade, must be equally unlawful." And a similar line is taken, I think I may say, by all the Law Lords, particularly by Lord Watson, who says, at page 42: "There is nothing in the evidence to suggest that the parties to the agreement had any other object in view than that of defending their carrying trade during the tea season against the encroachments of the appellants and other competitors, and of attracting to themselves custom which might otherwise have been carried off by these competitors." But when you turn to the criticism on that same case by Lord Herschell in *Allen v. Flood*, [1898] A.C., page 140, Lord Herschell puts an entirely different complexion upon the facts in the Mogul case, by saying: "In that case the very object of the defendants was to induce shippers to contract with them, and not to contract with the plaintiffs, and thus to benefit themselves at the expense of the plaintiffs, and to injure them by preventing them from getting a share of the carrying trade. Its express object was to molest and interfere with the plaintiffs in the exercise of their trade. It was said that this was held lawful, because the law sanctions acts which are done in furtherance of trade competition. I do not think the decision rests on so narrow a basis, but rather on this, that the acts by which the competition was pursued were all lawful acts, that they were acts not in themselves wrongful, but a mere exercise of the right to contract with

whom, and when, and under what circumstances and upon what conditions they pleased. I am aware of no ground for saying that competition is regarded with special favour by the law; at all events, I see no reason why it should be so regarded." Then, again, in *Quinn v. Leatham*, which is reported in 1890, ii. Ir. Rep. 713, Chief Baron Palles in his judgment made the remark: "The whole course of the trial showed that the origin of the acts in question was such a trade dispute, and that those acts were done in furtherance of it." When it came up to the House of Lords, the House of Lords said that it was not a trade dispute—there had been no trade dispute. Then, again, in *Allen v. Flood*, the whole of the judgments of the judges who were called in depended upon the question: "Assuming the evidence given by the plaintiffs' witnesses to be correct, was there any evidence of a cause of action fit to be left to the jury," with the result that every one of the judges summed up the evidence in a different way, and practically gave their judgment upon what they considered to be the result of the evidence; whereas the House of Lords decide the case upon a theory that Allen had only given information to the employer, with the exception of some of the judges, Lord Halsbury, Lord Morris, and I think Lord Ashbourne, who in their judgments plainly intimate that they considered that Allen had intimidated the employer; although in the trial before Mr. Justice Kennedy the judge had expressly stated that there was no evidence whatsoever of intimidation. It seems important upon these cases to bear in mind the theory of the facts upon which the decision was given in considering what the results of the judgments are.

138. I think you were next going to give us your view upon the subject of conspiracy, upon the illustrations, I mean, of what the feeling upon the subject of conspiracy is, as gathered from the various Bills which have been brought before Parliament?—I think the proposals which have been made show what apparently is now desired by some trade unions. For instance, both the Bills of last year, Mr. Shackleton's and Sir Charles Dilke's, contain the following proposed clause: "An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be a ground for an action, if such act, when done by one person, is not a ground for an action." In 1902, on 5th September, the Trade Union Congress demanded fresh legislation, "To clearly define the law of conspiracy, so that what is legal for one man to do shall not be either a criminal offence or an actionable wrong if done by many in combination." (*Vide Appendices*, p. 8.) On 5th May, 1903, in a letter to Members of Parliament by the Trade Union Congress, the Parliamentary Committee stated, among the trade union grievances, "acts when done by one person are legal: when done by combination with others are actionable at common law as a conspiracy;" and the appeal is made: "we respectfully desire on behalf of trade unions that under the Conspiracy Act the same rights shall be extended to actions done by persons in combination as to acts done by a single person." (*Vide Appendices*, p. 9.)

139. In your view is there any reason for an expression of doubt as to what the law really is on this subject?—It seems that during the last twenty years there have been various theories advanced. Perhaps I might put what one would say were the two extreme theories as instances. One school of thought seems to contend that there cannot be an action for conspiracy unless the persons conspiring have done something which one man alone might not do. That this view was held in 1894, or later than 1894—in 1901—is apparent from the last edition of Sir Frederick Pollock's "Law of Torts," sixth edition, where he alludes, at page 313, to "other malicious wrongs." He says this, "The modern action for malicious prosecution has taken the place of the old writ of conspiracy, and the action on the case grounded thereon, out of which it seems to have developed. It was long doubtful whether conspiracy is known to the law as a substantive wrong, or, in other words, whether two or more persons can ever be joint wrongdoers, and liable to an action as such, by doing in execution of a previous agreement something it would not have been unlawful for them to do without such agreement. There is now a distinct decision in the negative." (Then he alludes in a note to *Hutley v. Simmons*) "open indeed to discussion in the Court of Appeal. But it was already settled for practical

purposes that the conspiracy or 'confederation' is only matter of inducement or evidence." He alludes to the *Mogul Steamship Company*: "'As a rule' " he is quoting Lord Bowen in this case—"As a rule it is the damage wrongfully done, and not the conspiracy that is the gist of actions on the case for conspiracy." . . . "In all such cases it will be found that there existed either an ultimate object of malice or wrong, or wrongful means of execution involving elements of injury to the public, or at least negating the pursuit of a lawful object." Either the wrongful acts by which the plaintiff has suffered were such as one person could not commit alone, say a riot, or wrongful intention, if material, was proved, and damages aggravated by showing that they were done in execution of a concerted design. In the singular case of *Gregory v. Duke of Brunswick*, (6 Man. and Gr. 205, 953) (1844) the action was, in effect, for hissing the plaintiff off the stage of a theatre in pursuance of a malicious conspiracy between the defendants. The court were of opinion that in point of law the conspiracy could be material only as evidence of malice, but that in point of fact there was no other such evidence, and therefore the jury were rightly directed that without proof of it the plaintiff's case must fail." Then there is a little more on the succeeding pages, which I do not think I need read. Then as to the case to which he alludes, *Hutley v. Simmons*, which was decided by Mr. Justice Darling, [1898] 1 Q.B. 181, a cab driver sued the president of a strike committee and others for conspiring to induce Young, a cab proprietor, not to let the plaintiff a cab. It was there held by Mr. Justice Darling, on the authority of *Allen v. Flood*, that the act done was not a legal wrong to the plaintiff, although found by the jury a conspiracy.

140. (*Mr. Cohen*.) That was only a *Nisi Prius* decision?—It was before *Quinn v. Leatham*. Another case was *Kearney v. Lloyd*, 1890, L.R. Irish Rep. xxvi. 285, where Chief Baron Palles held this: "The act neither constituted a civil nor criminal wrong without a preconcert. Neither the ends sought nor the means contemplated would be a crime in anyone who, by himself alone and not in union with others, succeeded in accomplishing that end. Neither is that end nor are those means contrary to public policy or such as can be deemed illegal for any reason affecting the public generally." Thus distinguished lawyers held that view after the case of *Allen v. Flood*, but with regard to the decisions in *Hutley v. Simmons* and in *Kearney v. Lloyd*, before the case of *Quinn v. Leatham* and before *Allen v. Flood* was supposed to be explained in that case. The other school of thought is specially prominent since the case of *Quinn v. Leatham*, which put *Gregory v. Duke of Brunswick* upon quite a different footing from that which it might be supposed to represent in the statement made by Sir Frederick Pollock. It is perhaps best illustrated by the judgment of Lord Brampton in *Quinn v. Leatham*, [1901] A.C. 528, where he says this: "A conspiracy consists of an unlawful combination of two or more persons to do that which is contrary to law, or to do that which is wrongful and harmful towards another person. It may be punished criminally by indictment, or civilly by an action on the case in the nature of conspiracy if damage has been occasioned to the person against whom it is directed. It may also consist of an unlawful combination to carry out an object not in itself unlawful by unlawful means. The essential elements whether of a criminal or of an actionable conspiracy are, in my opinion, the same, though to sustain an action special damage must be proved. This is the substance of the decision in *Barber v. Leister* (7 C.B. N.S. 175). I quote as a very instructive definition of a conspiracy, the words of a great lawyer, Willes J. in *Mulcahy v. Reg.* (1868, L.R. 3 H.L. 317) in delivering the unanimous opinion of himself, Blackburn, J., Bramwell, B., Keating, J., and Pigott, B., which was adopted by this House. A conspiracy consists not merely in the intention of two or more, but in the agreement of two or more to do an unlawful act, or to do a lawful act by unlawful means. So long as such a design rests in intention only it is not indictable. When two agree to carry it into effect, the very plot is an act in itself, and the act of each of the parties, promise against promise, *actus contra actum*, capable of being enforced if lawful—punishable if for a criminal object, or for the use of criminal means. . . . The number and the compact give weight and cause danger. It is true these words were uttered touching a criminal case, but they are none the less applicable to conspiracies made the subject of civil actions like the

Mr. G. E.
Ashworth.

21 Mar. 1904.

Mr. G. R.
Askwith.
21 Mar. 1904.

present." Then he goes on with regard to the *King v. Warburton* (L.R. 1 C.C. 276) and says: "It has often been debated whether, assuming the existence of a conspiracy to do a wrongful and harmful act towards another and to carry it out by a number of overt acts, no one of which taken singly and alone would, if done by one individual acting alone and apart from any conspiracy, constitute a cause of action, such acts would become unlawful or actionable if done by the conspirators acting jointly or severally in pursuance of their conspiracy, and if by those acts substantial damage was caused to the person against whom the conspiracy was directed: my own opinion is that they would." Then he refers to the *Mogul* case, and he cites the *R. v. Journeymen Tailors of Cambridge* and the dictum of Lord Mansfield in *R. v. Eccles*, and of Mr. Justice Grose in *R. v. Mawbey*. Then again Mr. Justice Andrews, 1899, ii. Ir. Rep. 694-5, whose judgment is approved by Lord Macnaghten, says: "It is not the mere added fact of the conspiracy which makes unlawful the acts which would not be unlawful if done by only one. It can, in my opinion, be properly held in a case like this to be the altered character which, as I have endeavoured to point out, the concerted action impresses on the acts themselves." And then there is a very important statement, cautious in its form, but containing somewhat the same view as Lord Brampton's, given by Lord Macnaghten in *Quinn v. Leatham* [1901] A.C. 510, where he says: "Does a conspiracy to injure resulting in damage give rise to civil liability?" It seems to me that there is authority for that proposition and that it is founded in good sense. *Gregory v. Duke of Brunswick* is one authority, and there are others. There are valuable observations on the subject in Mr. Justice Erle's charge to the jury in *Duffield's* case and *Rowland's* case (17 Q.B. A. & E. 671). Those were cases of trade union outrages; but the observations to which I refer are not confined to cases depending on exploded doctrines in regard to restraint of trade. There are also weighty observations to be found in the charge delivered by Lord Fitzgerald, then Fitzgerald J., in *Reg. v. Parnell and others*: "That a conspiracy to injure, an oppressive combination, differs widely from an invasion of civil rights by a single individual cannot be doubted. I agree in substance with the remarks of Bowen L. J., and Lords Bramwell and Hannen in the *Mogul* case."

The passage in the judgment of Lord Justice Bowen in the *Mogul* case, which Lord Macnaghten refers to is this 1889 (23 Q.B.D. 616): "Of the general proposition that certain kinds of conduct not criminal in any one individual, may become criminal if done by combination among several, there can be no doubt. The distinction is based on sound reason, for a combination may make oppressive or dangerous that which if it proceeded only from a single person would be otherwise, and the very fact of the combination may show that the object is simply to do harm and not to exercise one's own just rights. In the application of this undoubted principle it is necessary to be very careful not to press the doctrine of illegal conspiracy beyond that which is necessary for the protection of individuals or of the public."

"But what is the definition of an illegal combination? It is an agreement by one or more to do an unlawful act, or to do a lawful act by unlawful means, *O'Connell v. The Queen* (11 Cl. and F. 155), *Reg. v. Parnell* (14 Cox C.C. 508) and the question to be solved is whether there has been any such agreement here." He then proceeds to differentiate combinations for the purpose of combination, and combinations with a view to harm, and the just cause or excuse permitted in the former, and not in the latter, and says. "But such legal justification would not exist when the act was merely done with the intention of causing temporal harm, without reference to one's own lawful gain, or the lawful enjoyment of one's own rights. The good sense of the tribunal which had to decide would have to analyse the circumstances and to discover on which side of the line each case fell."

Those are two views of conspiracy which seem to have been held. I might add to these judgments an important statement made by Lord Lindley in *Quinn v. Leatham*, at page 537, where he says: "It was contended at the bar that if what was done in this case had been done by one person only, his conduct would not have been actionable, and that the fact that what was done was effected by many acting in concert, makes no difference. My Lords, one man without others behind him

who would obey his orders could not have done what these defendants did. One man exercising the same control over others as these defendants had, could have acted as they did, and, if he had done so, I conceive that he would have committed a wrong towards the plaintiff for which the plaintiff could have maintained an action."

141. (*Chairman.*) You have mentioned at present the two extreme schools, and the illustrations you have taken of the two extreme points of view. Have you come to any conclusion to be drawn from the cases generally, or not?—The difficulty that to the ordinary person's mind appears to have arisen since the time of the *Mogul* case, seems to be somewhat of this kind: that Lord Justice Bowen built up an argument that an individual is civilly liable for malicious wrong, an act causing harm to another not actionable in itself, but if intended to cause harm, actionable unless done with sufficient justification: hence if in combination a conspiracy: that *Allen v. Flood* upset the idea of malicious wrong being actionable *per se* or requiring justification, and said that if the act is done in the exercise of a legal right it does not require justification; and that *Quinn v. Leatham*, not having malicious wrong to fall back upon, put forward conspiracy to injure, even if, as done by individuals, the acts did not amount to actionable wrongs and therefore brought conspiracy into prominence and made such acts of a conspiracy, not of an individual, illegal unless justified, and did not define justification or molestation, but sent the parties to law to find out. The result of the difficulty is how to conduct a strike and also in conducting a strike, the *Taff Vale* case having decided that damages can be got, how to avoid paying those damages. That seems to me the sort of argument that might be and indeed has been built up as the apparent result of these cases; and of course if it is anything like that, it puts a great difficulty on the conduct of strikes, and it becomes a question not only of law but also of policy as to what the Commission should suggest with regard to conspiracy.

142. Hitherto you have spoken of the civil liability in conspiracy cases. Turning now to the question of criminal liability, have you anything to say particularly on the section in the Act of 1875?—I have pointed out generally some theories of thought upon conspiracy, and it seems to me that it might be useful to consider shortly the history leading up to Section 3 in the Act of 1875 and then the section itself, and to deal with the two points of whether criminal responsibility still attaches in spite of the section, and how far and what civil liabilities are also liable to be incurred. In 1875 the Report of the Commission, page 27, which was sent in prior to the Act being passed, says this: "Legislative provision should be made to the effect that no person shall be liable to be indicted for conspiracy, by reason only of the object of the combination being to force or control the action or will of any master or workman in any matter relating to the mode of carrying on his business or work, unless the means of coercion to be resorted to shall be one of those mentioned in the Criminal Law Amendment Act, or be the wilfully breaking or procuring others to break any contract of hiring and service, and unless the object of such coercion shall be one of the purposes set forth in that Act." Following the same line that I have done with the other divisions, I mention that as indicating the suggestion that was made to Parliament with regard to this Act.

143. It was on the back of that Report I understand that the Act of 1875 was passed?—Yes; and I would like to point out particularly that the Report says, "No person shall be liable to be indicted for conspiracy by reason," etc., which is a point of considerable importance when one comes subsequently to consider some of the dicta, particularly of Lord Lindley, with regard to possible criminal liability still existing under the wording of the Act of 1875. Continuing with the progress of the proposals which were made in 1875, I would refer to what took place in Parliament, and the following statement by the Lord Chancellor Cairns in "*Hansard*," 3rd series, volume 226, page 35. The Lord Chancellor said: "The Criminal Law Amendment Act of 1871 repealed all the old trade combination laws, as they were called, and provided that certain specific things should be offences, and as to conspiracy it provided that, 'No person shall be liable to any punishment for doing or conspiracy to do any act on the ground that such act restrains or tends to restrain the free course of trade unless such Act is one of the Acts

hereinbefore specified in this section and is done with the object of coercing as hereinbefore mentioned.' It was supposed by all the parties to that Act that it would have eliminated the element of trade strikes; but it did not do that, and convictions had occurred which were somewhat unexpected. He believed it would be hopeless to reduce to a code the whole law of conspiracy, but it was quite possible, taking a particular area of acts, to say what should be a crime committed by one person, irrespective of any acts of conspiracy, and then knowing the punishment affixed to individual acts, it was open to Parliament to say, 'We will not sanction any higher punishment even when these acts are committed by more than one person.' This was what had been done here. A particular punishment had been assigned to individual acts, and then the clause prevented the general law of conspiracy from enlarging the criminal character of those particular Acts."

144. When he says "here" he means in the Act of 1875?—Yes.

145. Just let me see if I quite understand it. That seems to be taking another view of it. Looking at the Act of 1875 for a moment; that would mean, as I understand, what you have just read, that Section 3 was, so to speak, a corollary to Section 7. Section 7 points out the punishment for certain specific acts?—Yes.

146. Then I suppose Section 3 says no conspiracy over and above the doing of that act will render you any more liable; and that would be the application especially of Lord Cairns' words?—Section 3 itself alludes to a particular punishment by saying, "A crime for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable, under the statute making the offence punishable, to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment." The point is more clearly shown perhaps in the next extract that I was going to read, which is a statement by Lord Cairns, in Committee in the House of Lords, reported in "Hansard," volume 22d, page 164, where he says: "The Bill did not make a change in the existing law, and the clause now under consideration was in harmony with the other parts of the measure. Taken in connection with the following clauses, the Bill attempted to define what acts connected with trade disputes were criminal and what were not, therefore it recited all acts relating to trade disputes which were intended to be treated criminally, and it set those acts out. On the other hand, it declared by this clause, that an agreement by two or more persons to do what would not be a crime if done by one person, was not to be punished as a crime; but by the next clause intimidation and annoyance by violence was struck at, and it was declared that every person who, with a view to compel any other person to abstain from doing or to do any act which such other person had a legal right to do, or to abstain from doing, should use violence or intimidation either to his person, or his wife or children, or his property, should be liable on conviction to a pecuniary penalty or to imprisonment. By this clause then, intimidation was struck at, and combined action to carry out such intimidation would therefore be struck at. It was true that under the existing law, if one man broke his contract that would not be a crime, but if, say, fifty broke their contract that at common law might be regarded as a conspiracy. The principle upon which the Bill was framed was that the offences in relation to trade disputes should be thoroughly known and understood, and that persons should not be subjected to the indirect and deluding action of the old law of conspiracy." That leads up to the Act of 1875 itself, in which the section we have been considering is Section 3, which I will read, "An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime. Nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is awarded by any Act of Parliament. Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offence against the State or the Sovereign. A crime for the purposes of this section means an offence punishable on indictment, or an offence which is punishable on summary

conviction, and for the commission of which the offender is liable, under the statute making the offence punishable; to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment. Where a person is convicted of any such agreement or combination as aforesaid to do or procure to be done an act which is punishable only on summary conviction and is sentenced to imprisonment, the imprisonment shall not exceed three months, or such longer time, if any, as may have been prescribed by the statute for the punishment of the said act when committed by one person." I have no doubt that the opinion of working men since that Act of 1875 was passed has been that criminal liability for conspiracy in trade disputes has been swept away. I propose to deal with some of the points of possible criminal liability later on, but to allude first of all to certain cases which have occurred since the Act of 1875 was passed, with a view of endeavouring to point out the idea started by Lord Justice Bowen in the Mogul case, followed out in a large number of cases since, and the effect that that may have upon employers and workmen respectively, an effect which seems to have given rise on many sides to the view—I will not quite go so far as to say of one law for the employers and one for workmen, but of a law which is much more to the advantage of the employers than it can possibly be to that of the workmen, and which, in fact, puts the workman in the position of having continually to be coming to the Law Courts for the purpose of finding out what justification, according to the legal dicta, will enable him to escape from civil liability as an individual, from civil liability as a conspirator, and from damages in paying for that civil liability. The first and the most important case of all, which has been cited in judgment after judgment, with the greatest approval, is of course the judgment of Lord Bowen in the Mogul case, which occurred in 1880, 23 Q.B.D. 614, and went up to the House of Lords, 1892 A.C. 25. The defendants were ship-owners, and formed an association for the purpose of securing a monopoly of the carrying trade between Hankow and European ports. In pursuance thereof they offered a rebate of 5 per cent. to all shippers who should ship only with them; and their members were to forbid their agents, upon pain of dismissal, to act for the plaintiffs, who were a competing firm of ship owners. In one case certain agents were dismissed. Upon the plaintiffs sending ships to Hankow, the defendants underbid them, and by the consequent reduction of freights, forced the plaintiffs to carry at a loss. Held unanimously by the House of Lords, that the plaintiffs had no cause of action. Another case, which followed that on the same lines, was in 1898, the *Scottish Co-operative Wholesale Society, Limited v. The Glasgow Fishers' Trade Defence Association and others*, 35 Scottish Law Reports, page 645. In that case there was a combination by members of a trading society to induce salesmen not to supply the plaintiffs with goods, by representing to them that they would withdraw their custom if they continued to do so; and this was held lawful, the object being to prevent the plaintiffs from buying from a rival trading society. The facts at a little greater length are these: The co-operative stores and the fishers were rivals in trade. There was only one place in Glasgow (Yorkhill Wharf) for importation of American and Canadian meat, and there the salesmen, for the importers, put their meat up to auction. In order to oust the stores from this market, the fishers threatened the salesmen that they would refuse to bid at their auctions unless the salesmen declined to receive bids from the stores. The fishers being the larger customers, the salesmen yielded. The stores then brought this suit against the fishers for damages and an interdict, on the ground that the defendants by means of threats, had deprived them of their custom, that their acts were wrongful, illegal, and malicious, and amounted to an illegal conspiracy. Held, following the Mogul case, and Allen and Flood, that the fishers were not liable; they had only induced salesmen to do an act, in itself lawful, by means of which they were entitled to adopt. Then a third case on this point that I am going to allude to is, *Bulcock v. St. Anne's Master Builders' Federation and others*, 1902, 19 Times L.R. 27. In this case a joiner brought an action against a federation of master builders, the chairman and secretary, and a member of committee, for wrongfully and maliciously procuring him to be discharged from his employment. The defendant federation was

Mr. G. R. Ashwith.

21 Mar. 1904.

Mr. G. R.
Askwith.
21 Mar. 1904.

one of a number of similar local organisations in neighbouring places, all of which were affiliated to the Lancashire and Cheshire Building Trades Society. The plaintiff was secretary of the local branch of a joiners' trade union. There was a trade dispute between the joiners in the locality and their employers; and the plaintiff ceased working in consequence of the dispute, but subsequently obtained employment with a firm in another place, this firm being members of one of the allied federations. One of the rules of the Lancashire and Cheshire Society provided that in every case of dispute no member should employ any workman who was on strike or looked out from the workshop of another member. The defendants asked the society to intervene for the purpose of inducing the plaintiffs' employers to discharge him; and, as a result, this firm wrote to their foreman that the plaintiff had better be paid off, else they would get into trouble. The plaintiff was accordingly paid off and discharged. The County Court judge found that there was no evidence of any act done with an intention to injure the plaintiff, and that there was no evidence of anything except acts by the defendants to further their own purposes, and gave judgment in favour of the defendants. The plaintiff appealed: and the King's Bench Division held that the County Court judge had come to a correct conclusion, and dismissed the appeal, with costs.

147. (*Sir Godfrey Lushington.*) Was that a case of conspiracy, or a case against defendants as individuals? It is not mentioned as conspiracy?—I have not got it here as conspiracy.

148. (*Mr. Cohen.*) It was an action brought, was it not?—Yes, they brought an action. It comes in upon the point of justification. Those cases, when they are examined, show clearly what employers in competition, assuming that they are following their own advantage, can do, even though they may harm another, without being subject to damages for illegal conspiracy. Now, the point I was dealing with was, whether labour competition is on the same plane with the trade competition that is shown in those cases. There are dicta to that effect. Lord Justice Bowen in the *Mogul* case, 23 Q.B.D. 619 says, "One may with advantage borrow, for the benefit of traders, what was said by *Erle J. in Reg. v. Rowlands* of workmen and of masters: 'The intention of the law is, at present, to allow either of them to follow the dictates of their own will, with respect to their own actions, and their own property; and either, I believe, has a right to study to promote his own advantage, or to combine with others to promote their mutual advantage.' " Then it would appear, too, that Lord Shand held the same views, seeing his judgment in *Allen v. Flood* and in *Quinn v. Leatham*. In the former, A.C., 1901, 514, he quotes his remarks in *Allen v. Flood*, which are found at 1898, A.C. 164, and he says: "The case was one of competition in labour, which, in my opinion, is in all essentials analogous to competition in trade, and to which the same principles must apply." Then there is the judgment of Mr. Justice Cave in *Allen v. Flood*, which is very strong upon the same point; and there are the statements of Sir William Erle, and there are other statements that I do not think I need read. Those dicta concurred in saying that labour has the same rights of competition. Now, in the same way as I took three employers' cases, taking three cases of workmen, there comes the case of *Temperton v. Russell*, 1893, 1 Q.B. 715, and I will give a statement of the facts as they were very clearly and shortly stated by Lord Justice Holmes, in 1899, ii. Ir. Rep. 773. He says, "The plaintiff in that action had incurred the hostility of three trade union societies represented by the defendants, on account of his selling building material to a firm of builders who had refused to be bound by the rules of the society. The hostile feeling which had existed led the defendants to advise the societies to refuse to work for any builder upon goods bought by him from the plaintiff, and a builder named Brentano, who had entered into a contract with the plaintiff for the purchase of materials, was induced by the fear that this advice would be acted on, to break a contract that he had already made with the plaintiff and to withdraw his future custom." It was held that these people were liable for damages. The other case I was going to allude to was quite a recent case, *Carr v. The National Amalgamated Society of House and Ship Painters and Decorators*, which was tried at Manchester Assizes on July 21st and 22nd, 1903, an account of which is given in the "Labour Gazette" of August,

1903, at page 215. It is a very curious case: "A foreman in the employ of a painter refused to join the union to which the greater number of the other men in the same employment belonged. The men alleged that the foreman was really a working foreman, not a managing foreman, as he often himself worked with the brush; and they objected to work with him unless he joined their society. The painter refused either to persuade his foreman to join the society or to dismiss him, and, in consequence, the other men left their employment. In doing so they acted upon the advice of an official or 'walking delegate' of the society. The executive Committee of the Society by resolution gave authority for the men to be withdrawn. The bulk of the men left after giving due notice, but a few men left their employment contrary to the term of their contract of service. After this the painter was in negotiation with a contractor with the view of obtaining a certain sub-contract for painting. The walking delegate, however, saw the contractor and told him that if he gave the painter the work the men would be called out. In consequence of this the painter did not obtain the sub-contract. It was alleged that a similar thing happened in other cases; and that all the painter's various tenders were rejected when the parties were told that the men were liable to be called out. The painter then brought an action for damages against the Society and the walking delegate, alleging that they had unlawfully induced workmen to break contracts with him, unlawfully induced persons not to enter into contracts with him, and conspired to injure him in his business. In answer to questions put to them by the judge, the jury found that the defendants did conspire to induce and procure, and did in fact induce and procure certain of the plaintiff's workmen to leave their employment; that they maliciously, and with the intention of injuring the plaintiff, induced a certain firm to refuse to accept the plaintiff's tender for a contract; and that they did maliciously, and in order to injure the plaintiff, conspire to obstruct, and did in fact obstruct, the plaintiff in carrying on his trade as painter. The jury further assessed the damages at £322, and judgment was given for the plaintiff for that amount."

149. It was tried before a judge?—It was tried before a Judge of Assize.

150. It was not a County Court judge?—No; it is a very curious case. Those cases afford very good illustrations of what have been held to be justifiable for competitors in the market of trade, and what have been held unjustifiable for competitors in the market of labour, and of what extreme difficulty there is in the market of labour in dealing with this question of justification or no justification. After the Act of 1875 had been passed, there came up the two very important cases of *Bowen v. Hall*, 6 Q.B.D. 333, and of *Temperton v. Russell*, to which I have already alluded. In both those cases Lord Esher speaks of "malicious intent" in the sense of motive, and although *Temperton v. Russell* was actually decided upon another point, I think upon that of conspiracy to injure, yet the ruling that he then made, partly endorsed, though not expressly endorsed, or at least passed by by Lord Justice Bowen in the *Mogul* case, was held to be the view of what was admissible in a conspiracy until the case of *Allen v. Flood* threw doubt upon it. But the malicious intent which had been spoken of with approval in *Bowen v. Hall* and in *Temperton v. Russell*, was strongly disapproved of by the House of Lords in *Allen v. Flood*, and, it seems to me, was overthrown by that case. That case restored the decisions which had previously been good law, and which were laid down in *Stevenson v. Newnham*, 1853, 13 C.B. 285, and in the case of the *Bradford Corporation v. Pickles*, 1895, A.C. 587, laying down that an act which does not in itself amount to a legal injury cannot be actionable merely because done with a bad motive.

151. (*Mr. Cohen.*) Lord Macnaghten, you read to us, in *Quinn v. Leatham* said that the dicta of Lord Esher in *Temperton v. Russell* and *Bowen v. Hall* were overruled?—Yes, I read that passage at pages 508 and 509. It may be remarked that Lord Watson explains Lord Justice Bowen's statement with regard to malicious intent in the *Mogul* case, and points out that the case of *Bromage v. Prosser*, which Lord Justice Bowen cites in support of his proposition as actually worded, does not appear to be so, and that there are other portions of his judgment which appear to show that he considered that

there must be an actual wrongful act, and that mere intent alone is not enough. But the words which have been frequently misunderstood, if Lord Herschell is right, and which are at page 613 of 23 Q.B.D. are these: "Now intentionally to do that which is calculated in the ordinary course of events to damage, and which does, in fact, damage another in that other person's property or trade, is actionable if done without just cause or excuse. Such intentional action when done without just cause or excuse is what the law calls a malicious wrong (see *Bromage v. Prosser*, *Capital and Counties Bank v. Henty* per Lord Blackburn.)" That is a statement without any qualification. But on the next page he says: "Intimidation, obstruction, and molestation are forbidden; so is the intentional procurement of a violation of individual rights, contractual or other, assuming always that there is no just cause for it"; and he remarks, "To the argument that a competition so pursued ceases to have a just cause or excuse when there is ill-will, or a personal intention to harm, it is sufficient to reply (as I have already pointed out) that there was here no personal intention to do any other or greater harm to the plaintiffs than such as was necessarily involved in the desire to attract to the defendant's ships the entire tea freights of the ports"; and on the following page he says: "This seems to assume that apart from fraud, intimidation, molestation, or obstruction, of some other personal right *in rem* or *in personam*, there is some natural standard of 'fairness' or 'reasonableness' (to be determined by the internal consciousness of judges and juries) beyond which competition ought not in law to go. There seems to be no authority, and, I think, with submission, that there is no sufficient reason for such a proposition." Those passages seem to show that intentional action, which he mentions on page 613, did not bear the meaning of intentional action such as Lord Esher had held unlawful in *Bowen v. Hall* and in *Temperton v. Russell*. It may be noted that although *Allen v. Flood* is supposed only to have decided that an act which does not in itself amount to a legal injury cannot be actionable merely because done with a bad motive, yet any person reading the judgments would, I think, naturally come to the conclusion that the doctrine of traders having any special allowance given to them by the law, and, consequently, any idea of there being a conspiracy for trade interference, was intended to be overthrown by the rulings of the majority of the House of Lords. The judges and some of the Law Lords had based an elaborate argument upon a succession of cases starting from *Keeble v. Hickeringill*, a case of decoy shooting. That series of cases was examined with the greatest minuteness by Lord Herschell, and riddled. The deduction that might be drawn from it was, that not only had the question of motive been decided against as being of importance, but that also any special protection to traders had likewise gone. It is, therefore, from this point of view that the judgments in *Quinn v. Leathem* are so important. It may be noted that in deciding *Allen v. Flood*, Lord Herschell seems to have purposely had in his mind the possible effect that the judgment, as he intended it, would have in strikes and in labour competition. He begins (I am citing first of all at page 127) with these remarks: "It was said at the bar by the learned counsel for the respondents in answer to this difficulty, that there was an exception in favour of trade competition. I know of no ground for saying that such an exercise of individual right is treated with exceptional favour by the law. I shall revert to this point presently in connection with another branch of the respondent's argument." Then he says at page 129: "I understood it to be admitted at the bar, and it was indeed stated by one of the learned judges in the Court of Appeal, that it would have been perfectly lawful for all the iron workers to leave their employment, and not to accept a subsequent engagement to work in the company of the plaintiffs'. At all events I cannot doubt that this would have been so. I cannot doubt either that the appellant or the authorities of the union would equally have acted within his, or their, rights, if he, or they, had 'called the men out.' They were members of the union. It was for them to determine whether they would become so or not, and whether they would follow or not follow the instructions of its authorities, though, no doubt, if they had refused to obey any instructions which under the rules of the union it was competent for the authorities to give, they might have lost the benefit they derived from membership. It

is not for your Lordships to express any opinion on the policy of trade unions, membership of which may undoubtedly influence the action of those who have joined them. They are now recognised by law; there are combinations of employers as well as of employed. The members of these unions, of whichever class they are composed, act in the interest of their class. If they resort to unlawful acts they may be indicted or sued. If they do not resort to unlawful acts they are entitled to further their interests in the manner which seems to them best and most likely to be effectual." And at page 152, at the bottom, Lord Macnaghten says: "Against spite and malice the best safeguards are to be found in self-interest and public opinion. Much more harm than good would be done by encouraging or permitting inquiries into motives when the immediate act alleged to have caused the loss for which redress is sought is in itself innocent or neutral in character, and one which anybody may do or leave undone without fear of legal consequences. Such an inquisition would, I think, be intolerable, to say nothing of the probability of injustice being done by juries in a class of cases in which there would be ample room for speculation and wide scope for prejudice. In order to prevent any possible misconstruction of the language I have used, I should like to add that, in my opinion, the decision of this case can have no bearing on any case which involves the element of oppressive combination. The vice of that form of terrorism commonly known by the name of boycotting, and other forms of oppressive combination, seems to me to depend on considerations which are, I think, in the present case conspicuously absent." Then at page 164, Lord Shand says: "The case" (that is, *Temperton v. Russell*) "was one of competition in labour, which, in my opinion is in all essentials analogous to competition in trade, and to which the same principles must apply; and I ask myself what would be thought of the application of the word malicious to the conduct of a tradesman who induces the customer of another tradesman to cease making purchases from one with whom he had long dealt, and instead to deal with him, a rival in trade. The case before the jury was, in my view, in no way different, except that in the one case there was competition in labour—in the other there would be competition in trade." Lord Herschell alludes to the policy of trade unions, and practically in the first quotation seems to say that they may do things which other judges most distinctly seem to have held that they may not. Now when *Quinn v. Leathem* came up there was a case involving some very cruel boycotting; but still *Allen v. Flood*, having swept away the motive, made it difficult to see how, if acts not illegal in themselves were done by a number of persons acting in concert, those acts could be illegal. But the judges, in addition to any question of breach of contract, which alone, in so far as the headnote would apparently seem to suggest, was decided in *Quinn v. Leathem* (as harmless and mild a headnote, I suppose, as was ever on the top of a case of that character) had to find some method of dealing with the state of facts before them; and so they brought out, so it has been sometimes suggested, from the armoury of the law, this doctrine of conspiracy to injure, resting it upon the case, as the leading case, of *Gregory v. The Duke of Brunswick*; and further, in some of the judgments of the Law Lords, it appears as if the doctrine of trade interference which had been so attacked in *Allen v. Flood*, was once more revived and was still held to be good law. Certainly since *Quinn v. Leathem*, an opinion, which I quote merely for the purpose of showing what the opinion of the time was, it having been written in 1898, would not hold good at the present time. This was the view that a writer held in 1898 upon what *Allen v. Flood* showed; it is as follows: "So much for the questions of general law raised in this case. Let us now turn to its special bearing on trade unions. The first point to notice is that henceforth trades unions and the employers' federations will within the limits of the law have a free hand as to strikes and lock-outs. This, I believe, is the first unequivocal judicial declaration that operatives incur no civil liability in striking or in notifying a strike, whatever may be the case. The doctrine put forward, and now rejected, would have conferred upon the judges complete civil jurisdiction over them in these respects. For, of course, intentional damage to traders is a necessary element of every strike, and the only question would be whether the damage was done without just cause or excuse, and of this the court would be the judges.

Mr. G. R.
Askwith.

21 Mar. 1904.

Mr. G. R. Askwith.
 21 Mar. 1904. ———
 In dealing with this question according to their discretion, the judges in *Allen v. Flood* do not appear to have felt themselves precluded from considering anything they might think material, though curiously enough in this category they did not comprise the general policy of the union, of this they one and all disclaimed any criticism." I merely cite that for the purpose of showing an opinion that might be held of what *Allen v. Flood* was directly after it was decided. And then came the case of *Quinn v. Leatham* [1901, A.C. 495], the facts of which are shortly these. Certain members of a trade union, acting in combination, unsuccessfully employed, amongst other means of coercion towards Leatham, an employer and plaintiff in the action, the threat that they would compel Leatham's customers to cease to deal with him unless he dismissed certain of his employees who were non-union men, the object being to compel the employees to 'walk the streets' for the space of one year, by way of punish-

ment for not joining the union. Leatham offered to pay all fines on their behalf if the defendants would admit them to the union, but this offer was refused. Against this threat Leatham stood firm, and, in consequence, the threats being carried out to the letter, he was in danger of being practically ruined. The means thus unsuccessfully employed, so far as their real object was concerned, consisted of bringing to bear, this time successfully, the threat of a strike upon a customer of Leatham's named Munce, who supplied him regularly with goods for his trade, and whose servants were members of the union to which defendants belonged. These facts were held unanimously by six judges in the House of Lords to give Leatham a good cause of action against the defendants. The facts for a full review of them are perhaps most clearly and best stated in the judgment of Lord Brampton.

FOURTH DAY.

Thursday, 24th March, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Baronet.
 Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.
 SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

Mr. G. R. Askwith.
 24 Mar. 1904. ———
 152. (*Chairman.*) I think when we adjourned on Monday last you had just stated the facts in *Quinn v. Leatham*? —Yes. I had endeavoured to call attention to three cases that particularly dealt with the law as regards employers. I then pointed out that there were certain *dicta* to say that labour and trade were on the same footing as regards competition, and I had mentioned three cases with particular reference to the employed, and I had then called attention to *Allen v. Flood* and to *Quinn v. Leatham* with a view to leading up to the point that there is an idea that in competition labour has really not the same advantages in practice as capital may have, and that, further, labour is rather hampered, owing to the notion that *Quinn v. Leatham* has caused a vague crime to be in existence, the men not knowing what they may lawfully do in the course of a strike.

153. May I ask what exactly you mean there by "in competition"?—After the removal of the laws upon the restraint of trade in 1871 competition was bound to come up before the Courts as to whether it was legal or not—allowable or not. It appears to me that because the *Mogul* case brought forward into relief the fact that such combinations as trades unions which might previous to 1871 have been illegal on the ground of restraint of trade were not illegal even though calculated in the ordinary course of events to injure a private individual, if there was just cause or excuse, in that case competition in trade, and because *Allen v. Flood* brought forward the point that one man could, even though his motive was injury, do an act not in itself illegal and without using illegal means directed against a third party, it was therefore a plausible argument to say: "Let us have combination in furtherance of labour as in the *Mogul* case, and not be liable for an action for advancing our interests, they being justified on the ground of competition in labour," and further let those combinations be entitled to do hurt without considering the injurious motive they may have in doing so, because a single man by himself is not liable for an action for intentional interference in trade *per se*, or for the injurious motive he has in so doing *per se*. Of course, in the case of *Allen v. Flood* most of the judges carefully distinguished the case of an individual from the case of a combination. Lord Macnaghten at page

153 says:—"In order to prevent any possible misconstruction of the language I have used I should like to add that in my opinion the decision in this case can have no bearing on any case which involves the element of oppressive combination. The vice of that form of terrorism commonly known by the name of boycotting and other forms of oppressive combination seems to me to depend upon considerations which are, I think, in the present case conspicuously absent." But assuming that that was the idea in most minds, then came the case of *Quinn v. Leatham* which spoke of a conspiracy to injure and did not define what the illegality was in that conspiracy to injure, with the exception of saying that it was the agreement to do something not by unlawful means and not in itself unlawful.

154. (*Mr. Cohen.*) Would not the contrast you are describing appear more striking if, instead of using the word "competition," you used the word "molestation"? In the *Mogul* case clearly the three merchants were molested and practically driven out of the trade?—Yes.

155. That was the very object: would not similar acts by workmen be held to be wrongful?—That has been the idea—that they would be held to be wrongful in the cases that have come before the Courts. The word "competition," is a word that I think Lord Justice Bowen says he expressly uses as a simple non-legal phrase. If the point of view of what would now be put by a judge on a case coming up before the Courts is taken, it seems simple enough. I have selected as a very clear way of the matter being put the words of Mr. Justice Walton in *Giblan's* case, 18 *Times* Law Reports, 501, where in putting the case before the jury he says this: "Having regard to the decision of the House of Lords in the *Mogul Steamship Co. v. McGregor*, I do not think that this would be an actionable wrong if it were done for the purpose of protecting or advancing the interests of the members of the union, as, for instance, for the purpose of securing more work or better wages for themselves, even though a necessary consequence of such action would be to injure the plaintiff. On the other hand, having regard to the decision of the House of Lords in *Quinn v. Leatham* [1901] A. C., 495, I think that it would be an actionable wrong if it was done not to advance the interests of the

members of the union except perhaps in some remote and indirect way, but directly and primarily for the purpose of injuring the plaintiff." Of course, on that last point of directly and primarily endeavouring to injure the plaintiff arises the question of whether that can be done, whether without doing something that might give rise to that possibility, or appearance of possibility, anything can be done in a strike with any satisfactory results for the object of the strike—or rather that there is a risk, and all these cases show that there is a risk, of the men or the leaders of men in any strike being brought before the Courts and its being put as to whether they were doing it for the purpose of advancing their own interests, or for the purpose of injury only, without its being defined what that injury was.

156. (*Chairman.*) Will you give us the citation in Griblan's case?—18 *Times* Law Reports, page 501. That wording is taken from *The Times* Law Reports, and that was when the case was before Mr. Justice Walton; afterwards his decision was reversed by the Court of Appeal, but this is simply a question which has nothing to do with the reversal of the legal decision which he was putting before the jury. One may compare with what Mr. Justice Walton says, to show the difficulty, what Lord Justice Kay said in *Lyons v. Wilkins* (1889, 1 Ch. 832); he made these remarks: "If they" (the Executive Committee of the Trade Union) "by any means prevent Schoenthal working for Messrs. Lyons, that is an illegal act. They have conspired together and combined to take means to prevent somebody from working for Messrs. Lyons, who otherwise would do so. No Act of Parliament justifies that. It would have been illegal before this Act. There is nothing in this Act which justifies it, and it is illegal still." I cite that simply to show the difficulty that men are under in knowing what the law is upon the subject. I think I am right in saying that at any rate I do not remember any single case in which upon the grounds of advancement of the interests of labour the men have won, and there have been a great many cases before the Courts.

157. (*Mr. Sidney Webb.*) Is not that because the ordinary objects of a trade union have never been, I think, admitted by the judges, as for the advancement of labour?—I think that is quite a correct statement.

158. The object of the trade union is to maintain a standard rate, and I do not think that has yet been admitted in court, although it has by the political economists, as a valid object of public policy?—I think if you take Lord Lindley's *dictum* with regard to what strikes are, at the beginning of *Lyons v. Wilkins*, it shows clearly that he applies it to a much smaller circle.

159. Is not that really that the judges are still expounding the political economy of the 18th century in the 20th century?—Well, I should not like to give an opinion upon that.

160. (*Chairman.*) May I interpose here? It seems to me that when you said that the men had never won upon the ground that the trade union was promoting the advancement of labour, and then Mr. Webb asked you a question as to the objects of trade unions as interpreted by the judges you were rather meaning different things? I take it that in a case it is not the object of the trade union which may justify it, but it is the object of the particular action of the trade union, which is rather a different thing?—Yes; I see the difference you are pointing out.

161. Am I not pointing out the difference which goes to the root of what you said when you said you knew no case in which the men had won upon the ground of justification through an anxiety to promote the interests of labour?—Then it comes in the end to somewhat the same thing, because almost all the possible actions the trade unions could follow in the course of a strike have been brought before the courts, and not one of them has been held to be such as could be employed in the interests of labour so as to justify the union in what they did.

162. (*Sir Godfrey Lushington.*) Do you think *Allen v. Flood* was not a case in which full justice was done to the interests of trade unions?—That was not a case of competition between parties; if it was a case of competition, then as Lord Herschell says, the majority held that the man was not liable, and, I think, certainly in that case the action of *Allen* was defended.

163. (*Mr. Sidney Webb.*) Surely in *Allen v. Flood* there was no question of trade union action at all, because it was expressly decided on the ground that there was no conspiracy?—Exactly.

164. Therefore that is not a case; but further, would it not be right to say that no action by a number of men in order to maintain the standard of life has been held justified in these recent cases?—I think that is so. Of course, it may be answered to that that the cases which have been brought before the court have been very badly selected cases, and on the suggestion that they are badly selected cases attempts have been made to draw a difference between them, and to show that there are certain elements in what has been called justification which are necessary, and that none of these cases with regard to the men, as one might say, can be referred to any financial gain.

165. But have not those attempts always proceeded on the assumption that financial gain was a necessary ingredient of the advancement of labour?—I am inclined to think that that is so.

166. Is there any justification whatever in history or economics for suggesting that pecuniary advantage is the only form in which the interests of labour can be advanced?—Now you are taking me into economics and political economy; I am inclined *prima facie* to agree with you.

167. (*Sir Godfrey Lushington.*) I will ask you a legal question—do you say that the courts have ever expressed an opinion that it is impolitic or wrong for workmen to combine to raise their standard of life or to ameliorate their condition in any way? Have they ever said so?—No, I do not think so.

168. Is not this what they have decided, that where these motives have really actuated the parties, or it is professed that they have actuated the parties, wrong steps—illegal steps—have been taken to carry out those objects?—In the majority of cases I should say yes.

169. All the cases have gone against the trade unions—that you say?—Yes.

170. But it is on that ground, it is not on the impropriety of their combining to improve their position?—Not on the mere fact of the combination to improve their position—no.

171. (*Mr. Sidney Webb.*) Would you say that combining to improve their position was an unknown object of a trade union?—No, I do not think so.

172. Is not maintaining the standard of life part of the object of every trade union?—I should say so.

173. And that of course is much more than combining among the men to improve their own condition?—I do not quite follow that.

174. Is not the object of the trade union to maintain the standard of life for the whole trade, and is not that much more than the attempt of any particular combination of men to advance their own standard?—I agree to that.

175. (*Chairman.*) Will you proceed now with your statement?—Perhaps I might shortly give you some notes, for which I am indebted chiefly to the ideas of Mr. Chalmers-Hunt, who has written some articles on the subject, as to how he endeavours to separate these cases. These are words which are practically the same as he uses, namely, "The Mogul case decides that a concerted attack by a shipping combine against shipowners not within the ring, both parties concerned plying for hire on a certain line or route for a certain class of business by such means as reducing the rates of freight, compelling or inducing shippers to deal only with them and agents to act only for them, is not an illegal or oppressive combination; not a single act throughout the whole proceedings was resorted to which was not in any way pre-eminently calculated to effect the desired object; a direct and actually existing opposition of interest was there; and nothing was done which was not purely incidental to the successful appropriation of other persons' chances." That is the way in which the Mogul case is put.

176. (*Mr. Cohen.*) There is no mention of "oppressive combination"; the word was not used in the Mogul case?—It "is not an illegal or oppressive combination."

177. I think you will find that "oppressive combination" was not used at that time at all?—I daresay not. These are not my words. "*Temperton v. Russell*, 1893, decides that a concerted attack in support of the time work system of labour is oppressive and illegal. The loss was inflicted to enable an unknown proportion of the persons combining to obtain a purely uncertain advantage as against the rest of the persons combining."

Mr. G. R.
Askwith.

24 Mar. 1904

Mr. G. R.
Askwith.
—
24 Mar. 1904.
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That would mean that it was not referable to pecuniary gain at all. "*Allen v. Flood* specifically decides that for a person to report that an aggressive operation of two or more acting in combination will take place on a given contingency, he not having identified himself in fact by his previous conduct or otherwise with the aggressive intention of the combiners, is not illegal. *Quinn v. Leatham* decided that a concerted intimidation of a trader with a view to injuring another trader under circumstances from which it cannot be inferred that the aggression would achieve any present advantage or at any rate any tangible advantage at all, for the combination is aggressive, illegal, and actionable. Giblan's case was a case in which there was a mere intention to make a man pay his debts, and *Gregory v. The Duke of Brunswick* was a case in which there was only a mere intention to further the cause of morality and propriety."

178. Those are the views of Mr. Chalmers Hunt?—
—Yes.

179. Are they your views?—Not with regard to *Gregory v. Brunswick*. He also alludes to the conduct of the iron workers in *Allen v. Flood* and he suggests various elements such as time, space, the vicariousness of attacks, the question of indirect attacks, and various types of oppression which may or may not be allowed and the relative proximity of result, all those elements that may be very interesting to discuss and to work out in a Court of Law, but which people in the ordinary conduct of everyday life might find very difficult to decide upon which side of the line the case was, or to use Lord Justice Bowen's words in the *Mogul* case:—"The good sense of the tribunal which had to decide would have to analyse the circumstances and discover on which side of the line each case fell." The difficulty of discovering on which side of the line each case fell is still more clearly brought out in the judgment of Lord Justice Romer in Giblan's case. I have taken these words from 19 *Times* Law Reports 710, and there Lord Justice Romer says: "But, although I think there is no difficulty in stating the law, I fully realise that considerable difficulty may often arise in particular cases in ascertaining what is a 'justification' within the meaning of my statement."

180. (*Sir Godfrey Lushington*.) That is justification for inducing a breach of contract?—That is so. "As to this I can only say that regard must be had to the circumstances of each case as it arises and that it is not practically feasible to give an exhaustive definition of the word to cover all cases, and I would refer to what I have already said on a similar point in the judgment I have just delivered in the case of *The Glamorganshire Coal Company v. The South Wales Miners' Federation* (that is at page 707 of the same volume.) "I will only add that I do not think any excessive practical difficulty would arise in directing a jury on the point in any particular case, and I may refer as illustrating this to the direction given to the jury by Lord Justice FitzGibbon in the case of *Quinn v. Leatham* (1901 A.C. 500). In the case now before us I cannot say that I feel any difficulty in applying the law as regards the defendant Toomey, for, on the facts I have simply to determine whether two or more persons who have special power by virtue of their position to carry out their design are justified in combining to prevent, and in fact preventing, a workman from obtaining any employment in his trade or calling, to his injury, merely because they wish to compel him to pay a debt due from him."

181. (*Mr. Cohen*.) Have you got the last paragraph, as it would be very useful to add that:—"But I should be sorry to leave this case without observing that in my opinion it was not essential in order for the plaintiff to succeed that he should establish a combination of two or more persons to do the acts complained of. In my judgment if a person who, by virtue of his position or influence has power to carry out his design, sets himself to the task of preventing and succeeds in preventing a man from obtaining or holding employment in his calling, to his injury, by reason of threats to or special influence upon the man's employers, or would-be employers, and the design was to carry out some spite against the man or had for its object to compel him to pay a debt or any similar object not directly connected with the acts against the man, then that person is liable to the man for the damage consequently suffered. The conduct of that person would be in my opinion such unjustifiable molestation of the man, such an improper and inexcusable interference with

the man's ordinary rights of citizenship as to make him liable in an action."

(*Witness*.) I have called attention to the principal cases which more or less show the principles which will come up for the consideration of the Commission, and I think now I might quite shortly draw attention to some of the other cases so that any important point may not be considered to have been overlooked. The first one I have here is *Jenkinson v. Nield* (8 T.L.R. 540) "Action by a working tailor against the president of a branch of the Master Tailor's Association for publishing a black-list of names of working tailors which included the plaintiff's name, asking all master tailors not to employ the persons whose names were in the list. Held by the County Court Judge and a Divisional Court, Matthew and A. L. Smith, Lord Justices, that there was no evidence that the defendants were actuated by any other motive than self-interest. If that were so and they were not desirous of injuring the plaintiff, that was not actionable." The next case is *Trollope and Brothers v. The London Building Trades Federation and others* in 1895 (72 *Law Times* New Series, page 342). It was tried in consequence of a dispute with reference to the alleged preferential employment of non-union men by Messrs. Trollope. The Federation published a poster headed "Trollope's black-list" containing the names of non-union men employed by the firm and also certain workmen who had remained working for the firm although others called out by the Federation had left their employment. Messrs. Trollope and some workmen named in this black-list brought an action against the Federation and others, claiming an injunction and damages. An interlocutory injunction was granted against the defendants, their officers, agents, and servants and the other defendants by name only, and this decision was upheld by the Court of Appeal. At the trial the Federation did not appear, and the other defendants admitted the publication of the black-list, but pleaded that its publication was justified by the law, that every statement in it was true, in fact, that it was published without malice and in the legitimate and *bona fide* interests of the association of which they were officials. The Jury found that the black-list was not published *bona fide* for the purpose of promoting the interests of the association, but maliciously, to compel Messrs. Trollope to dismiss two of their workmen or others who were under contracts to serve them, that it was published vindictively, that it was calculated to injure and did injure Messrs. Trollope financially. Judgment was given for £500 damages and the injunction was made perpetual. The next case I may mention occurred in 1898: *Hutley v. Simmons*, the cab driver's case; I have already spoken about it. It was before Mr. Justice Darling and that was decided when it was supposed that it was governed by *Allen v. Flood*, and I only mention it now to call attention to the fact that it was very strongly criticised both by Lord Lindley and by Lord Brampton in *Quinn v. Leatham* (1901 A.C. 540).

182. (*Sir William Lewis*.) There was no appeal upon that, was there?—No, it is not very well reported, but it seems fairly plain that the Judge considered himself bound by what he interpreted *Allen v. Flood* to mean. In 1900 there was the case of *Boots v. Grundy*, 1900 (82 *Law Times* 769). That was a case in the printing trade where Mr. Justice Bigham and Mr. Justice Phillimore differed. The case is chiefly interesting for the careful summing up of the law of conspiracy by Mr. Justice Phillimore; he held that the case was within the law as he laid it down, and Mr. Justice Bigham held that it was not.

183. Were there any further proceedings in that?—No, it ended there. I have already alluded to Bulcock's case which is another black-listing case and Giblan's case has also been mentioned. The point in Giblan's case was that the Jury found that the action complained of, namely, attempting to prevent an obnoxious workman from getting employment or retaining his employment, was taken by the general secretary and the local secretary of the trade union in order to compel him to pay certain money he owed to the trade union, and by the general secretary, but not the local secretary, in order to punish the plaintiff for not paying this money. The judge at the trial held that the general secretary of the trade union, in calling out the plaintiff's fellow-workmen as he did, not for the purpose of protecting or advancing the interests of the trade union,

but merely for the purpose of punishing the plaintiff for not paying the arrears of his defalcations, had acted outside the scope of his authority as an officer of the union, and that the union was not responsible for this action of their general secretary, but this decision was reversed by the Court of Appeal. That court held that a combination of two or more without justification, to injure a workman by inducing employers not to employ him or to continue to employ him, is actionable. Persons who have special power to carry out their design are not justified in preventing a workman from obtaining employment merely because they wish to compel him to pay a debt due from him. Here the defendants intended to prevent the plaintiff from obtaining employment in order to compel him to pay a debt due to the union. The union and the other two defendants were all parties to wrongful acts in interfering with the plaintiff's right to dispose of his labour as he chose. The union in general meeting adopted the acts of the two secretaries who acted for the benefit of the union and in the union's service; therefore the union was liable as well as the other defendants.

184. That was to prevent a man getting employment, was it not?—It was to make him pay a debt; that was the idea in Giblan's case. There was a case to which I do not know that any importance need be attached, because it is very badly reported, of *Thomas v. The Amalgamated Society of Carpenters and Joiners*, which was tried at Manchester on April 19th, 1902, before Mr. Justice Wills. One report of it may be found in *The Times*, 28th April, 1902, and another is in the *Labour Gazette*, for May, 1902, at page 132. The facts were shortly these: The boycotted workman's alleged offence was his having worked in a shop not recognised by the union, and the jury found that the guiding motive of the action taken by the defendants was not to promote the interests of the trade union and its members, but to punish the plaintiff for having taken piece-work under the circumstances. In neither case was there held to exist sufficient justification for the boycotting proved to have taken place, and the boycotting was accordingly in each case held to have constituted an actionable wrong. *The Tallow conspiracy case* was decided in Ireland in November, 1902, and shows that a conspiracy to induce persons not to deal with a tradesman is good ground for an action for damages by the boycotted tradesman where such conspiracy is found to be malicious, and that if the intention is to punish conduct on the part of the plaintiff, considered harsh and tyrannical by the defendants, that fact constitutes no sufficient justification. It is to be remarked that in this case the Lord Chief Baron refused to leave to the jury the question whether the object of the defendants had not been to produce a change in the land laws of Ireland.

185. (*Sir Godfrey Lushington.*) What is the reference to that?—Where I find it reported is in *The Times*, November 13th and 14th, 1902 and also June 5th and 9th, 1903. I have not checked it with the *Irish Law Reports*. A case in which the facts were of a similar nature was decided at the Sligo Quarter Sessions on February 2nd, 1903, the *Kilmatique conspiracy case*.

186. (*Mr. Cohen.*) Was that case before the sessions only?—That was at Sligo Quarter Sessions.

187. (*Sir Godfrey Lushington.*) What is the reference to that?—*The Times* of the next day, February 2nd, 1903.

188. (*Mr. Cohen.*) Was the Tallow conspiracy case an action to recover damages?—I think so.

189. (*Chairman.*) These are both pure and simple boycotting cases?—Yes, neither of these last two cases was a trade union case or in furtherance of a trade dispute.

190. The man boycotted in the Tallow case happened to be a tradesman, but it was not a trade union case?—No.

191. (*Sir Godfrey Lushington.*) The trade union cases are all determined by the general law of conspiracy and not by trade union law?—Yes. The next case, and the last on points of this kind is the *Denaby and Cadeby Main Collieries, Limited. v. The Yorkshire Miners' Association and others*. That case is reported, the closing day, in *The Times* of February 9th, 1904, and in the *Labour Gazette* of March, 1904, page 71. As it is at present under appeal it has not yet got into the Law Reports, and I take this from the *Labour Gazette* "By the rules of the union its funds and property could

only be dealt with as provided in the rules; Rule 4 vested the government of the union in a council, consisting of a president, general secretary, financial secretary, agent, treasurer, and one experienced member. A delegate was elected in each branch who was a member of the council of that branch and also a member of the general council of the union. Rule 37 provided for the management of each local branch by a council of not less than five or more than nine members. Rule 64 enacted that if members of any branch had grievances affecting their wages, hours of work, etc., and if the grievances were not remedied, and after all proper and peaceful means had been tried to effect a settlement by deputations with the advice and assistance of the council, such members should be permitted to cease work by sanction of the union in accordance with the rules, and should receive strike pay. Rule 72 provided that no branch should be allowed to strike, unless the strike were sanctioned by two-thirds of the members of the branch; that the question of striking should be determined by ballot; the votes to be obtained at a special meeting of the branch called for the purpose; but in no case should a vote be legal unless three-fourths of the members of the branch recorded their votes, and two-thirds of the votes were in favour of the strike.

On behalf of the plaintiffs, it was argued that the Denaby and Cadeby branches had struck in defiance of the rules; that the union had paid large sums of money to men wrongfully on strike, contrary to the rules, and so prolonged the strike to the detriment of the plaintiffs; that the officers of the union sued were personally responsible for their acts in breaking the rules and encouraging the men to stay out; that the two local delegates were members and agents of the council of the union, and the union were liable for their acts; and that all the defendants had conspired to bring about or maintain an illegal strike. For the defendants it was contended that although the men came out illegally on 30th June, they might properly have given fourteen days' notice on 29th June, and by 12th July their contracts would have come to an end, therefore damages could only be recovered (if at all) in respect of that period of fourteen days; that the local delegates were not agents of the council so as to make the union responsible for anything done by them without authority; that the resolution of the council of 14th July had placed the union in a perfectly lawful position; that the union were doing nothing illegal in paying strike pay; and that personally the officials of the union (other than the delegates) had done no more than advise the men not to enter into certain contracts, which advice they were legally entitled to give.

The following questions were left to the jury—(1 and 2). Did the two delegates, or either and which of them, unlawfully and maliciously procure the men to break their contracts of employment by going out on strike on 29th June without giving notice? If yes, then were the delegates, or either of them, in so doing purporting to act as agents of the union and for its benefit? (3 and 4) Did the members of the committees of the Denaby and Cadeby branches, or any of them, unlawfully and maliciously procure the men to break their contracts of employment by going out on strike on 29th June without giving notice? If yes, then were the members of the committee in so doing purporting to act as agents of the union and for its benefit? (5) Did the union by its executive council, or by its officials, ratify the acts of the two delegates or the members of the committees in so procuring the men to break their contracts? (6) Did the union by its officials or by the members of the committees of the branches maintain, or assist in maintaining the strike by unlawful means—that is to say: (a) by molesting or intimidating men who were working for the plaintiffs with a view of inducing them to cease from so working; (b) by inducing, or attempting to induce, men, who were willing to enter into contracts of service with the plaintiffs, or to work for them, to refrain from so doing; (c) by the grant of strike pay against the rules of the union? (7) Did certain of the defendants named, maintain, or assist in maintaining, the strike by any of the above-mentioned unlawful means? (8) Did the defendants, or any, and which of them, conspire with each other, or with men in the employ of the plaintiffs, to do any and which of the things in Question 6? (9) Did the defendants, or any and which of them, unlawfully and maliciously conspire together, and with men formerly in the employ of the plaintiffs, to molest and injure the plaintiffs in the carrying on of their business, and were the

Mr. G. B.
Askwith.

24 Mar. 1904.

Mr. G. R.
Askwith.

24 Mar. 1904.

plaintiffs so molested or injured? The jury answered "Yes" to every question, except to 7. To Question 7 they answered: 'Not personally, but as servants of the association.' Judgment was accordingly given against all the defendants, with the exception of two of the officials of the union, who had died before the verdict. The question of damages was not left to the jury, and remains yet to be dealt with." That was tried in the King's Bench Division, January 27, 28, and 29, and February 1, 2, 3, 4, 5, 8, 9, and 13.

192. Whom was that before?—Mr. Justice Lawrance. Perhaps one might say shortly that the tendency of recent cases is to show, in the words of Lord Lindley, that a combination to prevent others from working is *prima facie* illegal, and accordingly requires justification. Failing such justification the trade unions whose officials take action of the character shown in some of these cases will be liable to be restrained by injunction and mulcted in damages. But one thing does come very clearly out from these cases, as a sure rock as it were, namely that interference with contractual relations is not permitted in the course of a strike, and that it requires justification should it take place.

193. (Mr. Cohen.) That is not peculiar to a strike?—No, but that does come out.

194. I know the expression "Interference with contractual relations," is used by Lord Macnaghten: but to procure a person to break a contract is a wrongful act?—I was going to allude to legal cases upon the point. In *Rogers v. Rajendro Dutt* (13 Moo. P. C., 209) the superintendent of a port directed his pilots not to continue to employ the plaintiff's tug. The plaintiff recovered damages in the Supreme Court, Calcutta, but upon appeal the judgment was reversed in the Privy Council, and it was laid down that the foundation of every action of tort apart from the question of malice is an act wrongful, and which may be actionable legally as an injury. "It is essential to an action in tort that the action complained of should, under the circumstances, be legally wrongful as regards the party complaining, i.e., must prejudicially affect him in some legal right. Merely that it will, however, directly do him harm in his interests is not enough."

195. That is a case which has often been cited; it was cited by Lord Davey, and it is cited in two Scotch cases as the foundation of their judgment that to constitute a tort you must prove the violation of a legal right, it is not enough to show you have done harm?—I expect the Scotch case is *Ferguson v. Kinnoul* in 1842. The other leading case is *Lumley v. Gye* (2 Ellis and Blackburn, 216.) Quoting from Lord Watson's description of it, he says: "*Lumley v. Gye* is a weighty authority in this branch of the law. It was an action of damage against a defendant who had induced a professional singer to break her engagement with the plaintiff, to his detriment, and it was resisted mainly upon the ground that the engagement broken did not constitute the relationship of master and servant between the contracting parties." That plea was overruled and the defendant found liable. The principle of the decision (from which Coleridge J. alone dissented) was clearly explained by Mr. Justice (afterwards Chief Justice) Erle, whose opinion is in complete accordance with the views expressed by the other learned judges, who constituted the majority of the court. He said: "The authorities are numerous and uniform that an action will lie against a person who procures that a servant should unlawfully leave his service. The principle involved in these cases comprises the present, for there the right of action in the master arises from the wrongful action of the defendant in procuring that the person hired should break his contract by putting an end to the relation of employer and employed, and the present case is the same." The learned judge went on to say, in language which I have already referred to: "It is clear that the procurement of the violation of a right is a cause of action in all cases where the violation is an actionable wrong." (These are Lord Watson's own words.) "These statements embody an intelligible and salutary principle, and they contain a full explanation of the law upon which the case was decided. He, who wilfully induces another to do an unlawful act which, but for his persuasion, would or might never have been committed, is rightly held to be responsible for the wrong which he procured."

196. *Lumley v. Gye* was decided only on demurrer; it was a demurrer to the declaration?—That plea was over-

ruled, but after the decision in *Allen v. Flood* and the way in which *Lumley v. Gye* is used in *Allen v. Flood* and *Quinn v. Leathem* and almost every subsequent case, it is evident that it is held by the House of Lords to be a leading case. That was followed up in *Quinn v. Leathem* by the words of Lord Macnaghten (1901 A.C. 510) where he said, "A violation of legal right committed knowingly is a cause of action, and it is a violation of legal right to interfere with contractual relations recognised by law if there be no sufficient justification for the interference." There is the case of *Read v. The Friendly Society of Operative Stonemasons and others*, which is reported in 18 *Times Law Reports*, page 577, and 1902, 2 K.B. 88; that is in the Lower Court; and when the Appeal took place in 19 *Times Law Reports*, page 21; and 1902, 2 K.B. 732. There a workman who had a contract of apprenticeship with his employers, which the Trade Union, alleging that the apprenticeship of this workman was contrary to the rules of the society, induced the employer, by threatening to withdraw his other workmen, to break, was awarded damages against the Union. Here it was clearly laid down by the Master of the Rolls that belief however honest, that in what they (the Defendants) were doing they were acting in the best interests of the Society of Stonemasons, could be no excuse for conspiring to deprive any person of the benefit of a contract: "The defendants did knowingly, and for their own ends, induce the commission of an actionable wrong and they employed illegal means to bring it about. Such conduct would be actionable in an individual and incapable of justification, *a fortiori* where the defendants acted in concert."

197. (Chairman.) Have you any more cases?—There is also the case of *Carr v. The National Amalgamated Society of House and Ship Painters and Decorators*, which I called attention to before at an earlier stage in my evidence. It was tried at Manchester Assizes in July, 1903, and is reported in the *Labour Gazette* for August, 1903, at page 215. I gave at length an account of it:—"The painter brought an action for damages against the society and the walking delegate, alleging that they had unlawfully induced workmen to break contracts with him; unlawfully induced persons not to enter into contracts with him; and conspired to injure him in his business. In answer to questions put to them by the judge, the jury found that the defendants did conspire to induce and procure, and did, in fact, induce and procure, certain of the plaintiff's workmen to leave their employment; that they maliciously and with the intention of injuring the plaintiff induced a certain firm to refuse to accept the plaintiff's tender for a contract; and that they did maliciously and in order to injure the plaintiff, conspire to obstruct, and did in fact obstruct, the plaintiff in carrying on his trade as painter. The jury further assessed the damages at £322, and judgment was given for the plaintiff for that amount." It may be observed nothing is said in the finding of the jury about any breach of contract by these workmen who presumably would have worked out their notice. That is the last case on this point of contracts that I particularly wish to bring before the Commission, and it seems to me that the general result of the contract cases amounts to something like this: If A. knows that B. has made a contract with C. and thereupon induces B. to break the contract, A. has *prima facie* committed a wrong to C., and C. if he suffers damage thereby has a right of action against A. Contractual relations recognised by law have been interfered with. But though they have been interfered with, yet there may be just cause or legal justification (which is the same thing) for A.'s interference. At the present time it is not possible to define all the circumstances constituting a justification for procuring a breach of contract according to the judgment of Lord Justice Romer in *Giblan's case*. It must in each case be a question for the court whether the circumstances found to be in existence are sufficient. Then it appears from the case of *Read v. the Friendly Society of Operative Stonemasons and others*, that the mere fact that A. considers B.'s contract with C. to be a violation of a previous contract with himself is not in itself a justification of A. inducing B. to break his contract with C. Malice is not material to the cause of action. Further if A. and C. combine together to induce B., whether by threats or payment or otherwise, to break a contract with C., they are liable to an action for conspiracy. And also continuing with *Giblan's case*,

1903, 2 King's Bench, 500 : If two or more persons prevent a man from getting employment and induce others to refuse to work with him merely in order to make him through that pressure pay a debt, there is an actionable wrong, and if the creditor is a trade union and such acts

are done by the union's officials for the purpose of collecting the union's debts, the union may well be liable; and according to Romer L. J., such things are not less actionable if done, assuming they can in fact be done, by one person alone.

Mr. G. R. Ashwith.
24 Mar. 1904.

FIFTH DAY.

Wednesday, 20th April, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.
SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

198. (*Chairman.*) I think you were going to give us two more recent cases to bring the cases up to date?—I have a note here of two cases which have occurred, I think, since the Commission last met, and which it may be advisable should be noticed, particularly as they are cases which rather endorse what I have been saying. The first is the case of *McGuire v. Andrews, Reynolds, Boatman, and the Amalgamated Society of House Decorators and Painters (Plaistow Branch)*. It was heard in the King's Bench Division before Mr. Justice Grantham, on 7th March, 1904, and is reported in the *Labour Gazette* for April, and also in *The Times* newspaper of 8th March of this year. The *Labour Gazette* report is the following: "A man, named McGuire, who was a member of a trade union, called the City of London Society of House Decorators and Painters, was employed as a painter by a firm of ship painters, and had been in their employment for three years. The majority of the painters employed by the firm were members of another union, the Amalgamated Society of House Decorators and Painters. McGuire had had no difficulty in working with the men of the other union until January 30th, 1904. On that day, Andrews, the Chairman of the Plaistow Branch of the Amalgamated Society, who described himself as the 'ticket steward,' demanded to see McGuire's ticket, as he was about to commence his day's work. He produced his ticket which showed him to be a member of the City of London Society. Andrews thereupon told him that that ticket was no good, as it was not the ticket of the Amalgamated Society, and that he would be stopped from working. Subsequently Andrews threatened two of the men working for the firm that the union would fine them if they worked with McGuire, and persuaded the men not to go to work with McGuire, promising that the union would pay for their lost day. There was then a meeting of the Plaistow Branch of the Amalgamated Society, at which were present Andrews, the chairman, the secretary, the treasurer, and other members. A resolution, which was not entered in the minute-book, was said to have been passed at the meeting, to the effect that the men were not to work with McGuire. The members of the Amalgamated Society afterwards refused to work with McGuire, and rather than have their work brought to a standstill the firm dismissed him. McGuire then brought an action against Andrews, the Secretary, and the treasurer of the Plaistow Branch, and also against the Plaistow Branch itself, claiming damages against the defendants for having conspired together and with other members of the union to procure the firm to dismiss the plaintiff from their employment. The defendants denied that there was any such conspiracy; asserted that the employment of the plaintiff by the firm was a breach of an agreement made with the Amalgamated Society by the firm that the firm should only employ members of that union; and contended that whatever the individual defendants had done as officers of the branch, they had acted strictly within the law, and that

neither they nor the branch could be held liable. Evidence was given that the firm had never entered into the alleged agreement. It was also submitted on behalf of the Plaistow Branch, that although the union might have been sued, a branch could not be sued as it had not got a registered name, and was not a corporate body. The judge rejected this contention, and left the case to the jury as against all the defendants. The following questions were put to the jury: (1) Did the defendants conspire to obtain the dismissal of the plaintiff because he was not a member of their union? (2) Was the plaintiff dismissed from his employment because of the action of the defendants? (3) Did the plaintiff lose work, and what were the damages? The jury found in favour of the plaintiff on each question, and assessed the damages at £25." That case is also noticeable for some remarks by the learned judge with respect to the case of *Allen v. Flood*; he said the House of Lords had given a decision in *Allen v. Flood* which they had been getting round ever since.

Mr. G. R. Ashwith.
20 Apr. 1904.

199. Where do you find that?—In *The Times* report.

200. Who was the judge?—Mr. Justice Grantham. The other case is *McElrea and another v. The United Society of Drillers and others*, which is reported in *The Times* of April 15th last. "The learned Judge (Phillimore) in summing up the case left the following questions to the jury: (1) Did Lindsay, the secretary of the society, and the society, conspire to molest or injure McElrea, the employee, by coercing his employer, by means of threats and intimidation to cease from employing him? (2) If so, did McElrea suffer any damage? (3) Did Lindsay molest or injure McElrea by coercing his employer by means of threats and intimidation to cease from employing him? (4) If so, did McElrea suffer any damage? (5) If McElrea suffered damage, to what amount of damages was he entitled? The learned judge said that if Lester, the employer, thought that it would be better not to have non-union men working with men who belonged to the union, in that case the defendants could not be held liable, but if the jury thought that there was an understanding between Lindsay, the secretary of the society, and Lester that McElrea should be kept out, that would amount to coercing by threats and intimidation to prevent McElrea from getting employment. In order to find an act of coercion by Lindsay, the jury must find that what was said to Lester had an effect upon his mind, and coerced him to cease employing McElrea. The plaintiff could not succeed in his action on the question of conspiracy unless the jury thought that the executive council or the branch council agreed with Lindsay that he should use his power on behalf of the society to prevent McElrea obtaining work. No doubt the case was extremely slender. No evidence had been given of any resolution having been passed by the executive council, and no member of that body had come forward to speak to anything having been done with a view to preventing McElrea from obtaining employment. The jury answered

Mr. G. R.
Askwith.
—
20 Apr. 1904.
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questions (1) and (3) in the affirmative, and assessed the damages at £125. Judgment was entered for the plaintiff McElrea for £125, on the claim for damages for conspiracy and malicious injury. His Lordship granted a stay of execution."

201. (*Sir Godfrey Lushington.*) Were not the circumstances of that case that the plaintiff had impeached the conduct of the treasurer of the union in the application of the sick fund? He had given offence, therefore, to the officers of the union; he was fined and turned out of the union, and then he was a non-unionist, and being a non-unionist they struck against him in the way you have mentioned. Is not that the case?—I think that was the case.

202. (*Mr. Cohen.*) There was no evidence, was there, that the trade union interfered actively?—None at all in this report; it seems to have been a case very much on the line, but it is evident there is some idea of appealing. There is no resolution of the society. That shows how the cases go.

203. (*Chairman.*) You are now to call attention to a suggestion made by Mr. Haldane?—Mr. Haldane has written some articles on this question of conspiracy, and I thought it might be advisable to mention the reference to the Commission. In the *Contemporary Review* for March, 1903 there is an article at page 366, and he there compares *Quinn v. Leatham* with the case of *Barber v. Penley*. That was a case which was decided in 1893, 2 Ch. 447, in which a crowd assembled outside a theatre, and it was a case of nuisance.

204. It was the "Charley's Aunt" case, was it not?—Yes. In the article Mr. Haldane suggests that strikes and picketing might be dealt with on the basis of a nuisance. He says at page 372: "It is a matter of fact, as I have said, and not a matter of definable abstract principle, upon which each question turns. I should prefer myself not to attempt an abstract legal definition, but to state in an amending Act that the only limit to freedom of action in case of strikes and picketing was the character of the particular act done. The simple question ought surely to be whether what is done amounts in the opinion of a jury, or some proper tribunal sitting as a jury, to a nuisance. What a nuisance is or is not the Courts have always most wisely refused to attempt to exhaustively define."

205. Does he mean there a nuisance to the public in general or a nuisance to the person to whom the attentions are directed?—I think either.

206. Either would do?—Yes.

207. (*Mr. Sidney Webb.*) Therefore there are both criminal and civil proceedings?—It would be either for a private or public nuisance. I do not know how far criminal proceedings would be affected by it.

208. (*Mr. Cohen.*) It is difficult to find out what he means by nuisance?—He goes on: "Circumstances may excuse what would, under different circumstances, be a nuisance. The question whether they do is one for concrete common sense rather than abstract law."

209. (*Sir William Lewis.*) An obstruction would be a nuisance pure and simple?—Yes. Criticism may be directed to that view, and that is that if it was held that the matter could be settled by a question of nuisance the *Mogul* case would have been decided the other way; you had a nuisance in the *Mogul* case, and competition would have been no excuse in law for the nuisance.

210. (*Chairman.*) Following out that line of view, what would you say was the nuisance in the *Mogul* case?—It was a nuisance to the agents, for instance, and I should have said a nuisance to the other traders.

211. Was it a nuisance to them, using nuisance in the ordinary sense of the word, because nuisance is not surely synonymous with anything that affects you prejudicially?—I think you would have to enlarge the meaning of nuisance by defining words very largely before you could bring it to extend to all the various cases of strikes.

212. I rather demurred to your introduction that you put that if you applied that doctrine to the *Mogul* case it would necessarily have decided the *Mogul* case the other way?—Mr. Haldane remarks in another place at page 366: "The law, as I have said, refuses to define a nuisance, and treats what amounts to one as a question

of fact, and it is plain that whether you collect a crowd by putting attractive pictures in your window, or performing a popular play or going to remonstrate with an employer at his works, you may cause what the law regards, and properly regards, as a nuisance."

213. But I think, if I may interpose there, where the law has refused to define, it has refused to define as to degree, but I do not think it has refused to define as to the category or scope within which nuisance acts.

214. (*Mr. Cohen.*) It is just the same in the case of fraud. The Act does not define all the circumstances which constitute fraud, yet nobody could say that the judge or the tribunal could find anything to be a fraud. What you point to there seems to be very important that, if those acts constitute nuisance, the question of reasonable justification would be irrelevant in all those cases; you could not justify a nuisance. That is what you said just now?—That was the point I made.

215. (*Chairman.*) That was, of course, the direct result of *Penley's* case, because *Penley* had every justification for producing a good play and he did not ask the people to block the street?—The end of Mr. Haldane's sentence is this: "It is also plain that if a number of persons combine to boycott a man in his business, and do it in such numbers and in such a fashion as to be a terror to him, this will be a nuisance. What sort of action would amount to a nuisance is, as I have said, a question of fact which the common sense of the jury has to determine."

216. (*Mr. Cohen.*) Do you not think working men and trade unions would feel themselves very much aggrieved if in every case the question were left to the jury or to the judge whether something constituted a nuisance?—It appears to me it would enormously increase litigation, because you could only get by dint of litigation at the various facts that would constitute a nuisance; and it would make the law and its results more uncertain than it is at present. And further than that, supposing a case where employers were concerned came up, you would have an ordinary jury determining nuisance or no nuisance, and not being able to decide whether competition was a justification for what they had done.

217. (*Chairman.*) I think you were going to point out certain *dicta* of the judges upon the wording of Sections 3 and 7 in the Act of 1875?—There are some *dicta*, particularly of Lord Lindley, with regard to those sections, the wording of which I think I mentioned at the beginning of my evidence, which are important to call attention to. The words of Section 3 of the Act, in order to make the matter clear, I think I might read again: "An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime. A crime for the purposes of this Section means an offence punishable on indictment, or an offence which is punishable on summary conviction, and for the commission of which the offender is liable under the statute making the offence punishable to be imprisoned either absolutely or at the discretion of the court as an alternative for some other punishment." Now it will be observed that, should trade union officials desire to claim the protection against criminal proceedings afforded by this section, it will be necessary for them to show that in calling out the employer's workmen, they were acting "in contemplation or furtherance of a trade dispute between employers and workmen." It should be noted that the expression, "trade dispute," is not defined in the Act, so that in each case it will have to be decided by an examination of the facts proved, whether the acts complained of took place in connection with what may be considered to be a trade dispute, or were acts of what Lord Brampton in *Quinn v. Leatham* termed "mere wanton aggression." It must further be observed that a certain degree of doubt exists, whether the words: "in contemplation or furtherance of a trade dispute between employers and workmen" do not apply only to a dispute between the particular persons, who wish to take advantage of the protection conferred by this Section of the Act, and the employers, by whom these persons are employed. If this view of the law be the right one, then two further questions of importance at the least appear to require consideration. First, is it a criminal offence for the officers of a trade union to organise a strike at all?

Second, are "sympathetic" strikes criminal conspiracies? On the first point in *Quinn v. Leatham* in 1901 (A.C. 541) Lord Lindley declared that he was "not at present prepared to say that the officers of a trade union who create strife by calling out members of the union working for an employer, with whom none of them have any dispute, can invoke the benefit of this Section even on an indictment for a conspiracy." If that is the law, of course, this Section does not give any protection from criminal liability quite apart from what has happened with regard to civil liability.

218. (*Sir Godfrey Lushington.*) Of course, subject to the protection of Section 3 of the Conspiracy Act which does exempt them from indictment?—I do not understand from what Lord Lindley says there that they would be protected by Section 3; he speaks of the officers of trade unions.

219. (*Chairman.*) In ordinary cases?—In ordinary cases; it would not then be a dispute between an employer and his workmen; they would be third parties.

220. (*Sir Godfrey Lushington.*) Quite so?—The full paragraph from Lord Lindley's judgment is as follows: "It must be conceded that if what the defendants here did had been done by one person it would not have been punishable as a crime. I cannot myself see that there was in this case any trade dispute between employers and workmen within the meaning of Section 3. I am not at present prepared to say that the officers of a trade union who create strife by calling out members of the union working for an employer with whom none of them have any dispute can invoke the benefit of this section even on an indictment for a conspiracy."

221. (*Chairman.*) Whether that be right—and I do not mean by right a correct expression—but whether that may be proper or not it does not strike me as a very difficult proposition to suppose that the framers of the Act did not mean the protection to go further than the more limited class of cases where there is a dispute?—That may be so. It would appear that this *dictum* of Lord Lindley's covers the not uncommon case, in which the question, whether the state of trade justifies an organised body of workmen in demanding an advance in wages, and in enforcing this demand, if necessary, by a threat of striking, is, in effect decided, not by the general body of these men, but by their advisors, the executive of their trade union, the policy adopted being carried out by means of directions given by the officers of the union, the trade union officials not themselves having any dispute with the employers in question, not indeed being themselves in the service of these employers. Of course, this statement is not anything more than a *dictum* of Lord Lindley in the course of argument, but if this *dictum* accurately represents the law it would seem that the trade union officials, by whom in a case like this the workmen belonging to the union are called out, appear to be liable to punishment under the Criminal Law.

222. (*Mr. Cohen.*) May I just mention on this point one passage in the judgment of Lord Justice Kay in *Lyons v. Wilkins* at page 828?—I have that passage here; I was going to put it in as being contradictory to that *dictum*. Lord Justice Kay in *Lyons v. Wilkins* says this: "Before the Acts of 1871 and 1875 the strike itself would have been illegal. The combination of a number of persons to induce and encourage and bring about a strike would also have been an illegal act. But section 3 of the Act of 1875 rendered legal 'an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen,' and provided that it should not be indictable as a conspiracy 'if such act committed by one person would not be punishable as a crime.' There it appears that strikes are legalised by Act of Parliament, and that one person would not be indictable for a crime by endeavouring to encourage or bring about that which in itself is not illegal, namely, a strike. Therefore a combination of two or more persons to do this would come exactly within the words of the third section of the Act, and would not, since this Act of Parliament, be an offence against the law." Lord Justice Kay, a little further on in his judgment, added "I take it that under the terms of the section which I have read it is not illegal for a trade union to promote a strike." There seems to be a complete conflict between the views held by these two judges.

Passing from section 3 to section 7 of the Conspiracy

Act, the latter section provides that "every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority (1) uses violence to or intimidates such other person, etc." is guilty of an offence punishable under the Criminal Law. It may be pointed out that the term "intimidates" is not defined in the Act. But it has been decided that intimidation must be a threat of something, which, if executed, would be a criminal offence, and that a threat by a trade union secretary that, unless the employer will discharge his non-unionist workmen, he will call out his unionist workmen, is not punishable under the Act as intimidation (see *Gibson v. Lawson and Curran v. Treleaven* [1891], 2, Q.B. 547, which were both decided by a specially constituted Court, consisting of Lord Chief Justice Coleridge and three other judges). Lord Coleridge there, in giving the judgment of the Court, stated that "intimidate" must receive "a reasonable and sensible interpretation according to the circumstances of the cases as they arise from time to time. We do not propose to attempt an exhaustive definition of the word, nor a complete enumeration of the cases to which it may be properly, nor of those to which it may be improperly, applied. It is enough for us to say that in this case it appears to us all there was nothing which under any reasonable construction of the word intimidate could be brought within it. Whether the action of the Amalgamated Society was morally right or not, is a matter upon which we express no opinion, because it is not the question before us. It seems to us it was not illegal within the words of the Act of Parliament under which the summons was issued."

223. (*Mr. Cohen.*) I daresay you will remember that the Royal Commission on Labour, which reported in 1894, recommended that the enactment should be made, or rather that the law should be made, still clearer, and should be amended in the following way: "Any person who uses or threatens to use violence to such other person or his wife, or children, or 'injures his property' omitting the ambiguous word 'intimidate.'" That is in section or paragraph 333 of the Report of the Labour Commission of 1894?—Of course there are a lot of old cases with regard to "intimidate" like *Walsby v. Anley* and *Reg. v. Roulunds and Reg. v. Drutt*. An attempt has been made to define it by saying "Unlawful threat may probably therefore be defined as the threat of an act in itself unlawful, reasonably calculated to constrain the person threatened to a particular course of conduct, and the same may be said of the statutory offence of intimidation, substituting, perhaps, the word 'criminal' for 'unlawful.'" That is at page 78 of Mr. Chalmers-Hunt's book on "The Law relating to Trade Unions."

224. That would be inconsistent with the case decided by that specially constituted Court?—In the Act of 1871 the words were, "Threaten or intimidate any person in such manner as will justify binding over the party complained of to keep the peace." That was explained in the Report of the Royal Commission in 1875, and in the Report of the Royal Commission of 1894 (paragraph 333) this is stated: "In the cases above mentioned it was decided that the more general words of the Act of 1875 had not any wider meaning. Having regard to the importance of making penal provisions of this kind clear on the face of them, both for the instruction of the public, and for the guidance of the persons not always learned in the law, who have to administer those provisions, we think the suggestion made on the workmen's part a reasonable one. We do not think, however, that it would now be satisfactory merely to restore the language of the repealed Act" (of 1871). "Intimidation which will justify binding a man over to keep the peace, as understood in the modern practice, must be such intimidation as implies a threat of personal violence. We can see no reason why this should not be plainly expressed in the terms of the Act rather than by words of reference, which become clear even to a lawyer only after consulting other books. Accordingly, we recommend that the first subsection of Section 7 of the Conspiracy and Protection of Property Act, 1875 should be amended so as to read thus: 'uses or threatens to use violence to such other person, or his wife, or children, or injures his property,' omitting the ambiguous word 'intimidate'?"—That is putting a great deal more into *Gibson v. Lawson and Curran v. Treleaven*, than there is in the report. The actual report says with

Mr. G. R. Askwith.

20 Apr. 1904.

Mr. G. R.
Askwith.

20 Apr. 1904.

regard to *Curran v. Treleaven*: "We do not think that the Legislature intended by the change of words in the first subsection of the 7th section of 38 & 39 Vict., section 86, to send the Courts back to 6 Geo. IV. chap. 129, for an interpretation of the word 'intimidate,' although the later Statute did repeal 34 & 35 Vict. chap. 32, which limited intimidation to cases which would justify a magistrate in binding over the party to keep the peace. There is indeed much to be said for the view entertained by my learned brother Cave, and acted upon by him (as mentioned by the Recorder in his judgment) in a case tried before him at Liverpool, namely, that intimidation in 38 & 39 Vict. chap. 86 must still be limited to threats of personal violence, as enacted by 34 & 35 Vict. chap. 32. It may become necessary to decide this point in time to come; it is not now; and we confine ourselves to the negative statement that 6 Geo. IV. chap. 129 is not now on this subject the governing statute." Those two are purely negative cases and really decide nothing at all except that something else ought not to be decided. Those points are with regard to the Criminal Law on these sections. With regard to the Civil Law, the question arises whether the attempt on the part of a trade union to coerce an employer by persuading or otherwise inducing workmen to leave or not to enter his employment constitutes an actionable wrong. This question has to be considered under two distinct aspects, according to whether the workmen in question (a) are, or (b) are not, under a contract of service, which they will break if they yield to the persuasion or inducement. I have dealt with a good many cases where the workmen were under contract of service, and it appears fairly plain that any procurement of a strike where there is a contract of service is actionable unless there is a justification, and I know of no case in which a justification has enabled the union or the persons who procured the strike to get off.

225. (*Mr. Cohen.*) Except according to the judgment of Lord Justice Vaughan Williams in the Glamorgan Coal Company case; but he was in the minority then; he thought it was justifiable, but the decision in the case was the other way, of course?—Then comes the question as to whether or not it is an actionable wrong, if a trade union, without provoking any breach of contract, attempt to coerce an employer by inducing his workmen (after due notice) to leave his service or induce men intending to enter his employment not to do so. Here again a distinction must be made between cases, in which such action (a) is, and (b) is not, considered to be taken with sufficient justification. First, as to cases in which it is held that no justification exists; it would appear that in such a case an action for an injunction and damages would lie against a trade union and its officers on the ground of "conspiracy to injure." Thus in *Lyons v. Wilkins*, where a trade Union, in consequence of the refusal of an employer to raise the wages of his workpeople and to alter his system from part piece-work, part time-work to one wholly one or the other, had organised a strike against this employer, and, in order to put pressure on him, ordered a strike at the works of a sub-contractor, who made goods for this employer only, the defendants (the Executive Committee of the Trade Union) were restrained by *interim* injunction from withdrawing the workmen of this sub-contractor from their employment. In this case Lord Justice A. L. Smith, observed in his judgment that no trade dispute existed between the sub-contractor and his workmen. "What the union did was not in furtherance of a trade dispute between him and his men. . . . That strike of the trade union against Schoenthal was . . . illegal." There have been a great many criticisms over that case of *Lyons v. Wilkins* and this secondary or sympathetic strike of Schoenthal's people, and there are long judgments both by Lord Lindley, Lord Justice Kay, and Lord Justice A. L. Smith about it. One point about the secondary strike is that the case was decided as long ago as 1896, before a lot of these other cases, and further that they seem to have decided it entirely upon the wording of the Act. They seem to have taken it upon the basis that strikes had only been made legal by the Act, and that apart from the Act what was done could not possibly have been done. In fact Lord Justice A. L. Smith goes so far as to say the counsel for the defendants had admitted that that was so. The counsel did not do anything of the kind; in fact when the Report is looked at, it will be seen that he in argument stated that this was legal either under the Act

or apart from the Act, but the judges decided it entirely as if the Act had caused a great deal of difference in the matter, and so the whole of the argument has got to be taken with that view. Still if the holding of the Lord Justices is correct with regard to Schoenthal under the Act, certainly secondary strikes are illegal it seems.

226. As a confirmation of what you have said I may remind you that *Lyons v. Wilkins* was decided when *Allen v. Flood* had been decided in the Exchequer Chamber and not overruled in the House of Lords, so that they were bound by *Allen v. Flood*, as decided in the lower court?—When *Allen v. Flood* came to be decided in the House of Lords a rather contradictory principle seems to be suggested by the language of Lord Watson at page 98, where he says: "It is, in my opinion, the absolute right of every workman to exercise his own option with regard to the persons in whose society he will agree or continue to work. It may be deplorable that feelings of rivalry between different associations of working-men should ever run so high as to make members of one union seriously object to continue their labour in company with members of another trade union; but so long as they commit no legal wrong, and use no means which are illegal, they are at perfect liberty to act upon their own views. That the boiler-makers who were employed at the Regent Dock, Millwall, did seriously resent the presence among them of the respondents very plainly appears from the evidence of the respondents themselves; and that they would certainly have left the dock had the respondents continued to be employed appears to me to be an undoubted fact in the case. They were not under any continuing engagement to their employers, and if they had left their work and gone out on strike they would have been acting within their right, whatever might be thought of the propriety of the proceeding. Not only so—they were, in my opinion, entitled to inform the Glengall Iron Company of the step which they contemplated, as well as of the reasons by which they were influenced, and that either by their own mouth, or, as they preferred, by the appellant as their representative. If the workmen had made the communication themselves, and had been influenced by bad motives towards the respondents, then according to the law which has been generally accepted by the courts below, they would each and all of them have incurred responsibility to the respondents. But it was clearly for the benefit of the employers that they should know what would be the result of their retaining in their service men to whom the majority of their workmen objected; and the giving of such information did not, in my opinion, amount to coercion of the employers, who were in no proper sense coerced, but merely followed the course which they thought would be most conducive to their own interests." Then again in *Allen v. Flood*, Lord James of Hereford (page 180) speaks thus: "Every organiser of a strike in order to obtain higher wages 'interferes with' the employer carrying on his business; also every member of an Employers' Federation, who persuades his co-employer to look out his workmen, must 'interfere with' those workmen. Yet I do not think it will be argued that an action can be maintained in either case on account of such interference."

227. Do you agree with me that if the defendants were not protected by the Act of 1875 (I mean in *Lyons v. Wilkins*) they, according to the judgment in the Court of Appeal in *Allen v. Flood*, were clearly liable?—Yes, I think so.

228. So that the real question in *Lyons v. Wilkins* was whether they were protected by the Act of 1875?—Yes.

229. And then two questions arose, one whether there was a trade dispute, and the other about the besetting and watching?—Yes. You are distinguishing the judgment of the Court of Appeal in *Allen v. Flood* from that in the House of Lords.

230. (*Sir Godfrey Lushington.*) Have you done with *Lyons v. Wilkins*?—I was not going to read any more of the judgment.

231. Of course there is an important sequel to that interim injunction?—Yes, Lord Lindley's further statement in *Quinn v. Leatham* about the alteration of the injunction by Mr. Justice Byrne and his criticism upon it.

232. I think Lord Lindley said that Mr. Justice Byrne in his judgment could not be quoted in favour of the legality of a sympathetic strike?—After *Allen v. Flood*

had been decided, on *Lyons v. Wilkins* going back to the chancery judge, Mr. Justice Byrne altered the injunction and stated (page 258) that he thought "that the court of appeal would have framed the second part of the injunction granted in a different manner had the case of *Allen v. Flood* then been decided by the House of Lords." For it was conceded by the plaintiffs that they could not succeed unless they could show malice, and it was the law as finally decided by the House of Lords that the existence of a malicious motive would not in such a case render unlawful an act or acts otherwise lawful. Upon that alteration of the injunction Lord Lindley made a criticism in the case of *Quinn v. Leatham* (page 541) where he said this: "Is a combination to annoy a person's customers so as to compel them to leave him unless he obeys the combination permitted by the Act (of 1875) or not? It is not forbidden by Section 7. Is it permitted by Section 3? I cannot think that it is. The court of appeal (of which I was a member) so decided in *Lyons v. Wilkins*, in the case of *Schoenthal*. . . . This particular point had not to be reconsidered when *Lyons v. Wilkins* came before the court of appeal after the decision of *Allen v. Flood*, but Justice Byrne modified the injunction granted on the first occasion by confining it to watching and besetting. He might safely have gone further and have restrained the use of other unlawful means; but the strike was then over and his modification was not objected to, and cannot be regarded as an authority in favour of the appellant Quinn's contention." Then in the course of the argument in *Quinn v. Leatham*, Lord Lindley also said this (page 538), from which it appears that he considers that all strikes or any combination to prevent people from working are *prima facie* unlawful unless they are justified: "A combination not to work is one thing, and is lawful. A combination to prevent others from working by annoying them if they do is a very different thing, and is *prima facie* unlawful. Again, not to work oneself is lawful, so long as one keeps off the poor rates; but to order men not to work, when they are willing to work is another thing. A threat to call men out given by a trade union official to an employer of men belonging to the union, and willing to work with him, is a form of coercion, intimidation, molestation, or annoyance, to them, and to him very difficult to resist, and to say the least requiring justification." If these observations of Lord Lindley correctly represent the legal position, it would appear that if a trade union should desire, say, to obtain for its members an advance in wages, which the union considers the state of trade warrants, but which the members of the union have not so far claimed from their employers, and if the union, with this object in view, should call out its members, directing them to work out their notices, and not leave their employment until they can do so without committing any breach of contract, such conduct on the part of this combination will, in the absence of sufficient justification, be good ground for an action by the employers concerned against the trade union and its officials, claiming an injunction and damages. What, however, would be held to constitute sufficient justification for conduct of this character is a question to which it does not seem easy to give any comprehensive reply. I have already pointed out that I know no case in which it has been held.

233. (*Chairman.*) It seems to me not so much that that view is that a strike itself is illegal. I mean apart from the common law—as that the fostering of a strike is illegal?—The fostering of a strike where the workmen come out not necessarily quite spontaneously. Those seem to be the chief points upon these two sections with regard to secondary strikes to draw attention to, and it would seem that the tendency of recent cases is to show that, in the words of Lord Lindley quoted above, a combination to prevent others from working is *prima facie* illegal, and accordingly requires justification. Failing such justification a trade union whose officials take action of the character I have mentioned would be liable to be restrained by injunction and mulcted in damages.

234. (*Sir Godfrey Lushington.*) What difference do you draw between an agreement to prevent persons from working and an agreement to induce them to strike. What is the difference?—I do not think there is any difference in the law.

235. A trade union delegate goes down to start a strike, and at the same time and by one and the same act he induces the people to strike, and he also prevents them

by persuasion from going on working?—Yes. I do not think as far as the cases have gone he would be able to show justification for the latter, and for the former the cases decide he would be liable.

236. I only wished to point out that the words of Lord Lindley admit of two interpretations?—Yes.

237. (*Chairman.*) Will you proceed with your statement?—Before passing from these Conspiracy Sections, I might, going back to the beginning of my evidence, point out that I showed that what was being asked for by trade unions was an amendment of the law by which they should not be liable for civil conspiracy unless the act was one for which a single person would be liable in the course of a trade dispute. It may be remarked that in 1875 Lord Cairns, in bringing forward the Report of this Commission, said: "The principle upon which the Bill was framed was that the offences in relation to trade disputes should be thoroughly known and understood, and that persons should not be subjected to the indirect and deluding action of the old law of conspiracy." The Act of 1875 was then passed, by which criminal conspiracy was entirely eliminated from the purview of all employees and employers you may say, and there was no thought of any such liability for it until this dictum of Lord Lindley in *Quinn v. Leatham* with regard to criminal liability. Further, the liability for civil conspiracy does not appear to have received any thought until the case of *Quinn v. Leatham* came up. Then it became apparent that civil conspiracy was a factor, and a factor of importance, because no man could tell without recourse to the Courts what he was liable for, because a conspiracy to injure was brought before the public, and the definition of what the conspiracy to injure was, was really left to the Courts. The judgment in that case became still more important when the Taff Vale Decision came up, rendering the officials and the executive of trade unions liable for such criminal conspiracy and the funds of the trade unions liable in damages. The point that is brought forward and the suggestions that are made are not so much to define what is or is not conspiracy, or whether it be conspiracy to injure, or conspiracy for trade interference, or conspiracy for this, that, or the other, but whether in trade disputes, in contemplation and furtherance of trade disputes, conspiracy whatsoever should continue to exist, or whether it should be eliminated. It is a broad point, a difficult point, and yet in some cases a simple point. In the course—since 1875, when it was supposed to have been settled—of nearly thirty years in England, apart from Ireland, there have been two important cases only settled on the point of conspiracy to injure, *Temperton v. Russell* and *Quinn v. Leatham*. Both those cases could have been decided on other grounds; the decision could have gone the same way on other grounds. In *Temperton v. Russell* certainly it was quite unnecessary to bring it in. *Quinn v. Leatham* was a case coming from Ireland, in which the judges in the Court below had given their judgments (the Irish judgment), which were read and to a certain extent adopted by the House of Lords here. All the other important cases, although in some of them the doctrine may have been alluded to, could be, and most of them have been, dealt with on other grounds, especially on breach of contract. Then, of course, I do not wish to criticise the existence of this doctrine of conspiracy to injure in Ireland without a more full study of Irish history upon the point, but I have had in the course of my career to examine and study a great many—a very, very large number, of cases of so-called boycotting on the Parnell Commission, and the vast majority of those could be decided upon other points than this conspiracy to injure.

238. When you say "other points" what points do you refer to?—Without bringing in conspiracy, such as violence or intimidation or illegal acts for which one man would be liable.

239. (*Mr. Cohen.*) Combination to commit torts?—Yes, either legal acts done by illegal means or illegal acts done by legal or illegal means.

240. (*Chairman.*) That is just what is puzzling me. That many forms of outrage, using the word in a very general sense, could be so dealt with I do not doubt, but I rather thought that in popular language the word boycott was reserved for the case where no illegal acts are used, and no illegal means—I mean to say what one understands as a case of proper boycotting is what Mr. Gladstone called

Mr. G. R. Ashwith.

20 Apr. 1904.

Mr. G. R.
Askwith.

20 Apr. 1904.

exclusive dealing?—And what Lord Salisbury called ex-communication of the middle ages. That is undoubtedly so with regard to boycotting in theory.

241. To bring my question to a point, what I want to get from you from your experience of these cases is: Take a case of that class of boycotting, is there any other ground upon which you could suggest that the practice could be struck at without taking in this doctrine of conspiracy to injure?—No, not that I know of. I think if you examine the first instances in which this exclusive dealing, if one may call that boycotting, was advocated by the members of the Irish Land League, you will find (and some of the speeches are put at the termination of the Report of the Special Commission in 1889) they specifically state that their object was not to get out of the law, but to do a thing that was within the law, I mean to say that they were permitted by the law to do what they did, and they said: "A trade union can do this, and therefore why should not we? A trade union can strike or object to work or do various things, and therefore we will do it." I was glancing only last night at some reports of speeches made by men like Biggar, and he was very emphatic in that way as to what their object was, but that does not quite cover the whole ground, because although their object might be to do it perfectly peacefully, yet in the course of the boycotting in nine cases out of ten they go over the law, and then they can be got at on other grounds. Whatever may be the decision of the Commission upon the point of civil liability for conspiracy it is plain that all England, I may say, considers that criminal liability was entirely done away with by the Act of 1875, and, of course, the question then becomes, is there any balance in favour of keeping this uncertain crime in Trade Disputes over the heads of union officials, and other persons, assuming that Lord Lindley's dictum is correct law? Even the suspicion of it ought to be dealt with.

242-3. You are dealing with the criminal side entirely at present?—Yes. Then whatever is done it must be remembered that the definition of trade unions does not deal only with workmen's unions, but also with employers' unions. I have been rather giving my evidence for the sake of example from the workmen's union point of view, but the whole of these cases must be taken with the remembrance of the definition of what unions are, and also with what any results of the alteration of the law might be upon employers' unions equally with workmen's unions. It may be remembered that Mr. Balfour, in introducing this Commission before the House laid some stress upon that in his speech mentioning how important it was that the great combinations should be considered by this Commission. I have not got the exact words here, but that is a point to bear in mind in considering the cases. That is all I have to say upon these sections. The next section I was going to deal with was Section 4 of the Act of 1871 which calls for some comment. The governing case really is *Old v. Robson*, 1890, 59 Law Journal, Magistrates Cases 41, for determining whether a society came within the Act or not. It had been held in *Swaine v. Wilson*, 1890, 24 Queen's Bench Division 252, where a claim was made for £50 for permanent disablement by blindness, that an agreement may be directly enforced when the main objects of a society are legal apart from the Act. But where the main objects are only legal by means of the Act, agreements of the kind mentioned in this section can in no case be directly enforced. The court has to inquire whether the main objects of the society are in restraint of trade, and, if so, the agreement is not directly enforceable. That was the importance of the decision in *Old v. Robson* by Mr. Justice Wills when he made the remark: "Now in the case of the society before us, it is extremely improbable that a member could get any benefit from it under the rules which are directed towards the benefit of members, unless he, at the same time, complied with the regulations relating to trade unions, and in restraint of trade. I am, accordingly, of opinion that the order appealed from has been made without jurisdiction, and that our judgment must be for the appellant." In *Old v. Robson*, a society, some of the rules of which were substantially those of a friendly society, while others related to trade movements and strikes, was registered under the Trade Union Act, 1871. A member summoned the Secretary under Section 2 of the Friendly Societies Act, 1875, for non-payment of a weekly allowance of 12s. for sick benefits and relief, and the justices in Petty Sessions made an order for such payment.

The Divisional Court (Pollock B. and Wills J.) held on appeal that the (main) objects of the society would have been clearly illegal before, and apart from the Trade Union Act, 1871; that nothing in the Act had rendered an agreement to provide benefits enforceable, and that, therefore, the justices had no jurisdiction to make the order. The point of the section is partly in the word "directly." The section runs as follows: "Nothing in this Act shall enable any court to entertain any legal proceeding instituted with the object of directly enforcing or recovering damages for the breach of any of the following agreements, namely: 1. Any agreement between members of a trade union as such, concerning the conditions on which any members for the time being of such trade union shall, or shall not, sell their goods, transact business, employ or be employed; 2. Any agreement for the payment by any person of any subscription or penalty to a trade union. 3. Any agreement for the application of the funds of a trade union—(a) To provide benefits to members; or (b) To furnish contribution to any employer or workman, not a member of such trade union, in consideration of such employer or workman acting in conformity with the rules or resolutions of such trade union; or (c) To discharge any fine imposed upon any person by sentence of a Court of Justice; or 4. Any agreement made between one trade union and another; or 5. Any bond to secure the performance of any of the above-mentioned agreements. But nothing in this section shall be deemed to constitute any of the above-mentioned agreements unlawful." The cases go on the meaning of the word "directly" and upon the meaning of the word "agreements." I will just shortly mention the cases upon "directly," because I think the law is perfectly clear now, although there has been some doubt about it. I think it is perfectly clear now that the word "directly" will be very strictly enforced. In *Duke v. Littleboy*, 1880, 49 Law Journal, Chancery 802, Mr. Justice Denman held that an injunction asked for against officers of a branch of the executive of a central trade union to restrain them from dividing funds amongst the members of the Branch or dealing with them contrary to the rules of the society and claiming payment to the Executive Council of so much of the funds as was not required for the current expenses of the branch was a proceeding to directly enforce an agreement to apply the funds of a trade union society to provide benefits to members. But on the other hand as against that view which was not really a direct enforcement there was *Wolfe v. Matthews*, 1882, 21 Chancery Division 194, where the plaintiffs asked for an injunction to restrain other members of their trade society from applying any part of the funds of the society to carrying out an amalgamation with another society and so applying them in a manner contrary to an agreement to provide benefits for members. Mr. Justice Fry said: "All that is sought here is to prevent the payment of moneys to somebody else. Either that is no enforcement at all or it is an indirect enforcement," and he overruled an objection that it was a direct enforcement. Yet on the other hand, showing that indirect enforcement may be considered by the Courts, in *Winder v. The Governors, etc., of Kingston-on-Hull Corporation*, 1888, 20 Queen's Bench Division 412, Mr. Justice Mathew said: "I also think this application was an attempt to directly enforce an agreement within Section 4 of the Trade Union Act 1871. Practically the guardians were suing in the name of the pauper. If this were possible it would have followed that the Statute could always be defeated by the assignment of a claim against a trade union." The most important case of all is *Chamberlain's Wharf Case* which is reported in 1900, 2 Chancery 605, and that case is important because of the criticism that has been directed against it. Mr. Chalmers-Hunt, in his book on "The Law of Trade Unions," page 170, in a note says: "The effect of the Statutory Rule prohibiting the direct enforcement of trade union contracts as interpreted by the Courts has had the effect of reducing unionist workmen to a state of serfdom far more deplorable than that intended to be provided against," and he speaks thus of the decision in *Chamberlain's Wharf Case* (page 184):—"And this practically amounts to a decision that not a single rule of a trade union (the purposes of which are illegal apart from the Acts) can be directly enforced; for it is difficult to conceive a rule which does not go to the consideration for the whole agreement; and yet it is obvious from the above case that only such a rule, if any (assuming it could

exist), could be directly enforceable." "The decision of the Court of Appeal in this case," he says, (page 184) "is, perhaps, to be regretted. It means that the unionist workman, who has gone on paying week after week and year after year his subscriptions in the expectation of securing a provision for his old age or in case of disablement is entirely at the mercy of his union, i.e., if the union would have been illegal apart from the Trade Union Acts." The interpretation of the decision is that the court treated "the rules of the association taken together as one agreement and considered them as so collocated to be an agreement, 'concerning the conditions on which any members for the time being of such trade union shall or shall not sell their goods.' The principle underlying this case is therefore that the court will enforce no part of an agreement, any clause or clauses of which come within Section 4, even though the part sought to be enforced exhibits none of the characteristics of an agreement within that section—that is a right to exercise the privileges of the society other than a claim to the payment of money by way of benefits." That is the interpretation that has been given to the decision of the Lord Chief Justice in *Chamberlain's Wharf Case* and my criticism upon it is that there is no ground for making that criticism in the terms in which it has been given. If the decision of the Lord Chief Justice in *Chamberlain's Wharf Case* is looked at, it is perfectly plain that he was deciding it upon the interpretation which he put upon Rule II., in the case under consideration, and that he considered that that particular Rule meant a direct enforcement, and the judgment of Lord Justice Collins following on, he says exactly the same thing. They gave their decision upon the close following of a case that had been decided by the Master of the Rolls (Jessel) before, in *Rigby v. Connol* 1880. 14 Chancery Division 482, and gave a very narrow interpretation indeed, not in the least intending to extend the restrictions of Section 4 in the wide way in which Mr. Chalmers-Hunt suggests.

244. (*Mr. Cohen.*) Does it not really amount to this, that the court may indirectly enforce an agreement; they cannot directly enforce an agreement, but they may indirectly enforce an agreement by granting on the application of a member of a trade union an injunction restraining it from applying its funds in violation of the rules and regulations of the Association. Is not that really the result of the cases as they stand? They have not gone to the Lords yet but they all point to that conclusion?—The last case in England is *Howden v. The Yorkshire Miners' Association* 1903, 1 King's Bench, 308 and 72 Law Journal, King's Bench, 176. An action is maintainable by the individual member of a trade union for an injunction to restrain a misapplication of the society's funds for purposes not sanctioned by its rules or rather in distinct contravention of these rules, and such action is not prohibited under the Trade Union Act 1871, Section 4, inasmuch as it is not a proceeding instituted with the object of directly enforcing an agreement for the application of the funds of the union to provide benefits for members.

245. (*Chairman.*) That I could understand; that is to say if the trade union proceeded to give away its funds or to subscribe to some object outside its constitution you could stop it, but surely you could not get your own money back by means of an injunction.

246. (*Sir William Lewis.*) That was applying money in connection with a strike?—Yes, it enabled the union to stop giving strike pay which they were very glad to do.

247. (*Chairman.*) That would turn on the particular rules of the particular union; if the union had had in its rules a specific provision that part of its funds were to go towards strike pay you could never have had that injunction?—They could apply the funds to strike pay under the rules of this particular union, and also it had to go on once it had started a strike. The way they managed to stop it was that it was held they were applying money for purposes not sanctioned by the rules as the strike itself was improper, because they did not obey the orders of their executive and they broke their contracts.

248. And in the sense of their rules it was not a strike?—Yes, that is the way they got out of it, because the Miners' Association were rapidly getting ruined by the vast amount they had to pay.

249. (*Sir William Lewis.*) It was a very convenient case for that association—saving their life?—Very.

250. (*Mr. Cohen.*) That point has not come before the House of Lords yet?—Those are the only cases under Section 4 to which I think it is important to draw attention. There is one case under Section 10 of the Act of 1876. This I call attention to because it seems rather a difficult decision, and because I think that you may very possibly hear practical objections to the ruling that there has been in the law. Section 10 of the Act of 1876 runs thus: "A member of a trade union not being under the age of sixteen years, may, by writing under his hand, delivered at, or sent to, the registered office of the trade union, nominate any person not being an officer or servant of the trade union (unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator), to whom any moneys payable on the death of such member not exceeding £50, shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent; and on receiving a satisfactory proof of the death of a nominator, the trade union shall pay to the nominee the amount due to the deceased member, not exceeding the sum aforesaid." Now, the Divisional Court in *Crocker v. Knight*, 1892, 61 Law Journal, Queen's Bench, 466, held that that word "shall" is to read as "may," in consequence of the section being governed by Section 4 of the Act which prevents an agreement with a trade union being directly enforceable. Section 4 of the principal Act we have just been dealing with, and therefore on the death of the person in the trade union the nominee or person who should obtain this money cannot obtain it from the trade union.

251. Who were the members of the Divisional Court?—It was decided first by Justices Lawrance and Wright, and upon appeal by Lords Justices Lindley and Kay. It is important to notice that that decision has been given although this Act has been extended and is referred to in the Provident Nominations and Small Intestacies Act, 1883, 46 and 47 Vict., cap. 47, which is an Act to extend the power of nomination in friendly and industrial, etc., societies and to make further provision for cases of intestacy in respect of personal property of small amounts; and the preamble begins: "Whereas, under the enactments named in the third section of this Act, a member of a friendly, industrial, or other like society to which the said enactments apply, may, by writing under his hands, delivered at or sent to the register office of such society, nominate any person to whom any moneys payable by the society on the death of such member, not exceeding £50, shall be paid at his decease, and may from time to time revoke or vary such nomination by a writing under his hand similarly delivered or sent, and on receiving satisfactory proof of the death of a nominator such society is bound to pay to the nominee the amount due to such deceased member, not exceeding the sum aforesaid," and when you turn to Section 3 the enactments which were referred to include Section 10 of the Trade Union Act Amendment Act, 1876, and speaks of these small funds, and then in Section 7, "If any member of a registered trade union, entitled from the funds thereof to a sum not exceeding £100, dies intestate and without having made any nomination which remains unrevoked at his death, such sum shall be payable, without letters of administration, to the person who appears to a majority of the directors, upon such evidence as they may deem satisfactory, to be entitled by law to receive the same." Now those are about as clear enactments as could possibly be laid down, and may have been put by the legislature upon the principle that after a man's death the people left behind him should be able to wind up his estate and get the money—however the construction that the judges have put upon it is that they are all overridden by Section 4 of the principal Act.

252. (*Chairman.*) I am not saying anything about the soundness of it, but I suppose their view must have been that Section 10 was a sort of statutory assignment *mortis causa* and that then upon the ground that *assignatus utitur jure auctoris* there ought not to be a greater right of recovery than if the man himself had been alive?—They rather put it on the ground that among other things it gave power to people under twenty years of age to make nominations. People may come forward and say that this is a grievance and that is the reason for alluding to the legal interpretation.

Mr. G. R.
Askwith.

20 Apr. 1904.

SIXTH DAY.

Wednesday, 27th April, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.ARTHUR COHEN, Esq., K.C.
SIDNEY WEBB, Esq., LL.B., L.Q.C.HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

Mr. G. R. Askwith. 253. (*Sir Godfrey Lushington*.) We will begin, if you please, with the Taff Vale case?—If you please.

254. Should I be right in thus describing the Taff Vale case—that assuming that what is known to the law as a tort has been committed and it has been committed by the executive of a union acting on behalf of the whole union and acting within the scope of its agency, the House of Lords decided that the trades union fund is liable?—Taking that assumption, I think that is so.

255. That is to say, that they applied to a trade union the liability which pertains to the individual?—On that assumption.

256. Now, supposing that an individual commits a tort, he is liable in an action, and if he is cast in that action and fails to pay damages and costs, I suppose that any interest which he might have in any valuable property would be liable to be appropriated for that purpose?—I suppose they would appropriate any property of his that they could obtain.

257. Now if two persons jointly commit a tort and are jointly interested in a valuable fund and they are successfully sued for tort and fail to pay the costs and damages, would not their shares in that valuable fund be liable to be seized?—Yes, I suppose they would.

258. But now, supposing that there are 500 persons who jointly, through an agent or not is immaterial, commit a tort, and that they are also jointly interested in a valuable fund, each of them having only a very small fraction of that fund—in law would not that fund also be liable to be applied to meet their liabilities?—I think that the person gaining the case could proceed and obtain judgment for the share of all or any.

259. Therefore, supposing a trade union to be such a society as we have mentioned, the liability of the trade union funds has in theory of law always existed on legal principles?—Yes, if you suppose that.

260. But as a matter of practice that liability cannot be enforced. What prospect would there be of success in having instituted 500 suits against 500 individuals who each own one five-hundredth part of the fund?—In practice you would not be able to get at the details.

261. Therefore the reason why trade unions have not been effectually liable has been due to an imperfection of the general law as to procedure in dealing with a large number of persons?—In one sense that is so, I think, if you take it that the money individually belongs, after it comes to the funds of the trade unions, to each one of them.

262. I assume that?—Yes, on that assumption.

263. Then if that be so, that imperfection of the law is an anomaly?—In a sense it is so.

264. If therefore trade unions were not liable, it was not because of anything in trade union law, not because the law favoured trade unions, and not because it was just that trade union funds should not be liable, but simply because the general law for enforcing the liability of a large number of persons associated together by a loose tie could not be practically carried out?—I do not think that that was the idea in the minds of trade unionists. I think they thought, and the Labour Commission of 1894

rather endorsed their view, that the law was that they could not be sued: whether it was a wrong or right interpretation of the law is a different matter. And further, I think that the expressions in *Temperton v. Russell* certainly led to the belief that they could not be sued in the same way as they can now be sued owing to the view that has been taken about representative actions.

265. You have anticipated what I was going to ask. But such being the imperfection of the procedure, incorporation would have been a remedy, would it not?—Yes, it would have made it more easy to get at the funds of the incorporated body.

266. But incorporation has, of course, a double operation, that is to say, incorporation would enable outsiders to sue a trade union for tort, but it would also, supposing the law in restraint of trade were relaxed as it has been, enable members of a trade union to sue the trade union on contract?—Yes, unless the rules specially forbade it.

267. Now, going to the Report of the Royal Commission presided over by Sir William Erle, would you say that incorporation had been considered by that Commission under both these aspects?—I do not think they gave much attention to the question of bodies being sued by outsiders, other than that a great point in their evidence was the question of whether trade unions, treating them as clubs, could by their members be liable for claims made by members against them.

268. Was that limited view of incorporation taken both by the majority and by the minority, do you know?—There is no hint in the proceedings or report of any difference of opinion between the two sections as to either the majority or the minority having paid special attention to that side of the question.

269. Do you recollect this passage in the report of the minority, No. 4, page xxi: "It should be specially provided that except so far as combinations are thereby exempted from criminal prosecution nothing should affect the liability of every person to prosecution and punishment for any offence under any statute or rule of law for the time being in force; nor affect the liability of every person to be sued at law or in equity in respect of any damage which may have been occasioned to any other person through any act or default of the person so sued"?—Yes, I have read the passage.

270. That does not look, does it, as if they negated the idea of a trade union being liable for torts done by the union?—No, I do not think they say anything in their report specially about that.

271. The question having been left in that form by the Commissioners, then the Legislature proceeded to pass the Acts of 1871 and 1875. Now in either of those Acts is there a distinct provision or intimation of any kind that trade union funds should not be liable for torts committed by trade unions?—No, there is no distinct provision.

272. Was it ever suggested?—It was not suggested. There was no mention made of it in the debates in the House of Commons.

273. Did the promoter of the Bill, Lord Aberdare, who brought it in, do more than simply quote a passage

from the Report of the Minority, to the effect that incorporation was undesirable, on the ground that it was better not to subject the trade unions to suits from members?—I have not found in the reports, either of the debates in the House of Commons or the debates in the House of Lords, any distinct statement with regard to the liabilities of trade unions to outside parties; they are talked of as being clubs, and of its being important to have them upon the same basis as clubs.

274. Therefore I conclude that there was no Parliamentary assurance of any kind?—No.

275. It can hardly have been said to have been considered by Parliament; in fact it was not?—It does not appear in the report of the debates that it was a salient question.

276. Then in 1893, I think, there was the case of *Temperton v. Russell* in which it was attempted, was it not, to make trade unions and the executive responsible for a collective tort?—Yes.

277. And that failed?—Yes, it failed.

278. The Court ordered, I think, the names of the defendants as representatives to be struck out, on the ground that the general regulation which allowed bodies consisting of numerous members to be sued by means of representatives, only applied where those representatives had a proprietary interest?—The Court said that it was not a proper case under Order XVI., Rule 9, and they said that a large number of the persons whose names were put down did not represent anyone at all, and therefore they were to be struck out.

279. That was a decision which did not turn upon trade union law, I think?—No, I think not.

280. Purely on a point of general law?—Yes.

281. But still, so far as it went, that was an assurance from the Court to workmen that their funds could not be directly made subject to a suit?—That appeared to endorse the view that, I suppose, had been held before; and that judgment was further adopted by the Commission in 1894.

282. I am just coming to that; but in the meantime let me put this to you: The question is not what was the view of workmen as to the law, but what was the law?—Possibly, yes.

283. The workmen had in *Temperton v. Russell* what might be called an assurance of protection, but, of course, the decision of a Court which is not the highest Court of all, which is not the House of Lords, is good only for what it is worth, it is liable to be upset?—It is always liable to have a different judgment in the House of Lords.

284. Then before I go on to the case of the Taff Vale Railway in the House of Lords, just to follow the historical order, I will ask you one or two questions about the Labour Commission of 1894. There the question of incorporation in its legal aspect, namely, as affecting outsiders in suits of tort as well as members in their suits chiefly for contract against the union, was considered much more than by the Commission presided over by Sir William Erle?—Yes, they made a special report upon the subject.

285. But it was assumed, was it not, by the majority of the Commission that trade union funds were not liable, and therefore they proposed or suggested a limited kind of incorporation?—They said that incorporation would give them opportunities of suing, and of being sued, if it took place.

286. Did they not suggest that it might be advisable that a trade union of masters should be able to make a binding contract with a trade union of men on the subject of wages or the conditions of labour?—Yes, I think so. I read some of the extracts the first day of my evidence.

287. Although that suggestion was founded on the current theory that trade union funds were not liable, they did not go into that deeper question as to whether trade union funds were in theory liable, or the reasons why trade union funds were not practically liable?—No; they appeared to have swallowed *Temperton v. Russell* whole.

288. Quite so. Now we come to the decision of the Taff Vale case. Have you got the report there?—Yes.

289. If you turn to Lord Lindley's judgment you will see, I think, that he refers to two early cases in equity

which establish the principle of suing a society by means of taking representatives. Those cases were anterior, were they not, to the Trade Union Act 1871?—He refers to *Meux v. Malby*, which was a case in 1818, reported in 2 Swanston, page 277, and the *Commissioners of Sewers v. Gellally*, 1876, 3 Chancery Division, 615.

290. Both those cases were anterior to the Act of 1871, were they not?—No; the second one was in 1876.

291. (Chairman.) Lord Lindley really referred to that for Sir George Jessel's observations on the general point. *Meux* is the real case?—*Meux* is the case in which the Master of the Rolls of the day, Sir Thomas Plumer, reviewed all the old cases and reviewed the remarks of Lord Hardwicke, in which Lord Hardwicke goes back as far as the South Sea Bubble.

292. What I was pointing out was that he absolutely cites *Meux v. Malby* as an affirmation of his text, that the taking of representative persons was avowedly done to prevent the failure of justice?—Yes.

293. (Sir Godfrey Lushington.) And Lord Lindley goes on to say, does he not, that that procedure, although it was a procedure to prevent a failure of justice, was not applicable at that time to Courts of Common Law?—He says "The Rule itself has been embodied and made applicable."

294. That is another point.

295. (Chairman.) The rules as to parties in suits of equity were not the same as those rules which governed Courts of Common Law, Lord Lindley having already said that the rules as to parties to Common Law actions were too rigid for practical purposes.

296. (Sir Godfrey Lushington.) Quite so. Then he points out, does he not, that by the regulations of the Courts made in 1873, by Order XVI., Rule 9, this procedure, recognised already by the Court of Chancery, should become available in all the High Courts?—He says it has been embodied and made applicable to the various divisions of the High Court.

297. Lord Lindley then expressed an adverse opinion to the decision in *Temperton v. Russell* on the interpretation of that Order XVI.?—He speaks of the unfortunate observations on the rule.

298. And therefore he considers that that rule is now applicable and can be enforced in all the Courts?—If that is the meaning of his remark "unfortunate observations," it is so. I do not know that the suit in the Taff Vale case would come under Order XVI., Rule 9.

299. But do you not understand that the decision in *Temperton v. Russell*, that Order XVI. was inapplicable to trade unions, was over-ruled?—No, I do not know that I would go as far as that. Order XVI. is a very special rule. I think you can sue without going under that Order. Under this decision I think you could have a representative sued without specially going under Order XVI., Rule 9.

300. (Mr. Cohen.) In a class action?—In a class action.

301. (Sir Godfrey Lushington.) The observations of Lord Lindley were addressed, were they not, to this point, the question of the form of procedure, the mode in which a liability which existed according to the law could be enforced in the Courts?—The first part of Lord Lindley's judgment is entirely confined to form.

302. Therefore if the liability of trade union funds could be enforced in the manner suggested by Lord Lindley the reason why it has come to be enforceable is that the general law or rule of procedure has been improved?—It has been found out that the procedure will not prevent the action being brought and practically carried out.

303. But it enables the action to be brought?—Yes.

304. Therefore the possibility of suing a trade union with its funds from this point of view need not be attributed at all to special trade union law, to the Act of 1871, but is simply in accordance with the laws of general procedure now in operation?—It has now become apparent that in form suing a trade union can easily be done.

305. And, of course, as the law allows of such procedure, it must be assumed that the law considers such procedure promotes, or is necessary for, the course of justice?—Yes.

306. Now there is, is there not, another ground on which it was held that the liability of trade union funds

Mr. G. R.
Askwith.

27 Apr. 1904.

Mr. G. R. Askwith. could be enforced in the Taff Vale case. You mentioned that yourself ?—By representative action, do you mean ?

27 Apr. 1904. 307. No. Did not Mr. Justice Farwell hold that by the Act of 1871 a trade union had been created a legal entity and therefore might be held liable in tort ?—Yes.

308. Can you explain what a legal entity means ?—No, I should not care to give a definition of it.

309. But you can state what was enacted by the Act of 1871. It defined, did it not, what a trade union was ?—Yes.

310. It enabled a trade union at its option to be registered ?—Yes, and it gave to registered trade unions certain privileges ; but it alluded to trade unions, whether registered or unregistered, as bodies which were no longer to be illegal.

311. The main provision of the Act of 1871, which declared that the agreements or trusts of the trade union should not be void or voidable, because the purposes of the trade union were unlawful as being in restraint of trade, was made applicable to registered and unregistered trade unions alike ?—That applied to all trade unions, whatever their character.

312. And then in addition registered trade unions received certain definite privileges, such as power to hold land, and so on ?—Yes.

313. Therefore, to sum up what you have said about the Taff Vale case, two grounds were given for the decision : One was, that a trade union in the case of tort may be sued by means of representatives ; and that would apply to registered and unregistered trade unions alike, would it not ?—Yes.

314. And that ground proceeded simply on principles of general legal procedure ?—Yes.

315. The other ground was the Act of 1871, which dealt exclusively with trade unions, and for present purposes, perhaps, exclusively with registered trade unions ?—Yes.

316. That was the ground which we may say was created by special legislation with regard to trade unions ?—Yes.

317. (Chairman.) As we are on the Taff Vale case I should like to put this to you. In reading the Taff Vale case as reported in the House of Lords, I notice that in Mr. Justice Farwell's judgment he indicates that before him the full measure of the contention that a trade union or trade union funds were not liable for the torts of their agents had been pleaded ?—Yes.

318. And of course he overrules that. He says in a passage on page 430, " If the contention of the defendant society were well founded, the Legislature has authorised the creation of numerous bodies of men capable of owning great wealth, and of acting by agents with absolutely no responsibility for the wrongs that they may do to other persons, by the use of that wealth and the employment of those agents." And he then comes to the conclusion that the Legislature intended no such thing ?—Yes.

319. When the case went to the Court of Appeal the Court of Appeal set aside his orders upon the ground that a trade union cannot be sued in its registered name ?—Yes.

320. That is set forth in the report, page 434—Yes.

321. When the case came to the House of Lords I do not find a trace of the counsel for the trade unions in the House of Lords arguing the question that had been argued before Mr. Justice Farwell at all. They make a sort of vague allusion to it, but they do not argue it. In other words, they seem to me to have risked their case upon what they thought their position of vantage was, namely, that a trade union cannot be sued ?—They say this, " The question now is only whether a trade union can be sued in its registered name."

322. In its registered name. And that is all there is a trace of in the argument ?—Yes, I think that is so, so far as appears by the synopsis here.

323. They thought it was good tactics, you see, because they thought if they could win upon that it was a way of winning ?—Again at the end of the argument it says, " In case the appellants are wrong on the main point they seek to amend by suing representatives, but this is not a case for such a procedure."

324. But that again is a form of suing only ?—Yes, that is so.

325. (Mr. Cohen.) I should like to ask one or two questions on the Taff Vale case. The reasoning of Lord Lindley and Lord Macnaghten was founded, was it not, upon two assumptions : first, that the tort in respect of which an action is brought is one committed by persons acting as the agents of the union, and therefore of all its members ; and, secondly, that the funds to be attached are funds belonging to the union and therefore to all its members ?—Yes.

326. It only would apply to cases to which those two conditions would apply ?—Yes, I think so. If you could put the funds in a different position so that they could be got out of that liability, as it were, then you would not be able to enforce the judgment.

327. There is no case which has yet decided in what manner these funds could be made liable ?—I do not quite follow.

328. Do you know of any case in which it has been decided how these funds could be got hold of, how they could be taken into execution ?—Lord Macnaghten, I think, suggests that the trustees must be added.

329. There is a suggestion of that kind, but it has never been worked out yet ?—No.

330. (Chairman.) The Taff Vale people paid as a matter of fact ?—Yes.

331. (Mr. Cohen.) Of course it is a question for trade unions to consider whether they could not frame their rules in such a way that they should not be liable, and could not be made liable, for the acts of a delegate or a branch ?—I think it is very possible that they could be so framed ; but, of course, the present difficulty is that the rules have sprung up from time to time during thirty years, and have not been framed with any such idea.

332. (Chairman.) Of course no actual rule would save them from liability, if they nevertheless allowed their representatives to act in a certain way ?—No ; unless the funds were put in trust for special purposes.

333. The segregation of funds is a different thing ; that is surely quite a different point from Mr. Cohen's. The segregation of funds might be attained, but, of course, it would have to be attained by the hampering consideration that the funds so segregated could not be applied at any time for purposes other than those for which they were segregated ?—Yes.

334. But the question of whether by their rules they could prevent a general liability for the acts of a minor official, such as a delegate, would always have to be considered, would it not, that if *de facto* they allowed a delegate to act in a certain manner they might not be saved in spite of any rules ?—I do not think a rule by itself, however binding it might be, between the parties who were subject to the rule would be at all binding as to the rights of other people, outsiders.

335. In other words, the question for the jury in a case of tort like that is always, whether, in point of fact, the person who acted, acted as agent for the other ?—Yes. The question of liability, I have a note here, is put rather well by Mr. Justice Willes, in *Bayley v. The Manchester, Sheffield and Lincolnshire Railway Company*, Law Reports, 7 Common Pleas, page 415, 1872.

336. (Mr. Cohen.) This is the passage : " It is not sufficient, in order to excuse a master, to show that the particular act was wrongful, or even that the servant was warned not to do what was wrong. In any case of collision in which the master takes no part he has his remedy against the servant for misconduct and breach of authority as between them, although a third person injured by the wrongful manner of an act done by the servant in the course of his employment has his remedy against both the servant and the master. A person who puts another in his place to do a class of acts in his absence necessarily leaves him to determine, according to the circumstances that arise, when an act of that class is to be done, and trusts him for the manner in which it is done ; and consequently he is held answerable for the wrong of the person so intrusted either in the manner of doing such an act, or in doing such an act under circumstances in which it ought not to have been done, provided that what was done was done not from any caprice of the servant but in the course of the employment." That is the classical passage ?—That is the one I was alluding to.

337. It is that rule that would be applied; the ordinary rules of agency would be applied in a question of the liability of trade unions, and no other law?—Yes. Other cases on the same point are *Limpus v. The London General Omnibus Company*, 1 H. and C. 526, and *Barwick v. The English Joint Stock Bank, L.R.*, 2 Ex., 259.

338. If the trades unions were incorporated the funds of the trade union would not be liable for any act done by a person or agent which was *ultra vires* the corporation?—No, I do not suppose it would.

339. There is one point I want to mention which was referred to, I think, by the Prime Minister the other day in the recent debate. If the views of Lord Lindley and Lord Macnaghten are correct as to the grounds on which the funds of the trade union can be made liable, then if the funds in question are funds of the union they would be liable whether they are separated or not into two classes, would they not? How could the funds of a trade union be separated into two parts so that one part should not be liable for torts committed by the agents of the trade union?—I should have thought that you might have had, say, special trustees for a sick fund, or special trustees for a benefit fund.

340. But then if the trustees were under the direction of the executive of the trade union, there is no reason why the funds as to those trustees should not be liable?—But the trustees would hold the funds upon a special trust.

341. And only to be applied to a certain purpose?—Yes, and they would not take the orders of the executive of the union to apply them to a strike. They would say, "That is not within the trust deed."

342. Then you must make the trustees independent of the trade union?—Yes, that would be a very difficult matter; and as was stated in that same debate by one of the Labour Members, it would increase the number of officials to a large extent.

343. (*Sir Godfrey Lushington.*) Supposing that the trade union invested its funds in trustees ever so tightly, and that the trust was that those funds should be applicable solely and exclusively to the maintenance of persons out on strike, do you mean to tell me that those funds could not be touched in an action against the union for committing a tort in the conduct of the strike?—No, I do not say so at all. I was alluding to funds not set apart for a strike but set apart for sick or benefit purposes. If you set apart a fund specially for a strike, then I think that the sum set apart for the strike would certainly be liable for the torts of agents committed in the course of the strike.

344. If a fund were set apart for any purpose, say for repairing the trade union buildings, would those funds not be available in the hands of a successful plaintiff?—Not if the trust deed was tight enough.

345. Then of course if that is so, the liability of a trade union can be excluded by trust deeds?—Yes, I think so.

346. Altogether?—Yes.

347. (*Mr. Cohen.*) You agree with me, do you not, that the real question in these cases must be, whether the funds are the funds of the union and therefore the funds of all the members?—Yes.

348. And I suppose if the executive of the union has, according to its constitution and the rules of the union, power to dispose of any fund, then that fund would be a fund belonging to the union?—Yes.

349. Now the trade unions all of them desire, I believe, I think the evidence proves it conclusively, that the executive should have power over all the funds?—That has generally been the tendency of trade union work.

350. That is the way in which alone they can control the affairs of the union?—Yes.

351. And therefore so far as one can judge, trade unions would not desire to have a certain portion of the funds put in the hands of trustees beyond the control of the executive of the union?—I think the report of the Royal Commission of 1894 shows that they objected to it then, and I fancy they object to it now.

352. There are just a few more questions that I wish to put to you about the point referred to by Sir Godfrey. Assuming now that the opinions of Lord Macnaghten and Lord Lindley are right on this question, namely, that the funds of a trade union, whether registered or not, can

be made liable for a tort committed by one of its agents, then the question as to whether it is desirable for trade unions to be incorporated assumes a different form from what it had previously. I mean to say, assuming that view to be correct the funds of the trade union are liable. One great objection to incorporation was, that if a trade union were incorporated its funds would be liable, but if its funds are now liable there is less objection to incorporation than there was formerly?—It would take away one element that was undoubtedly a strong objection to incorporation, if I am right in my view of the law, *viz.*, that both registered and unregistered trade unions are now liable.

353. I was assuming that. Now take the other element. There would be nothing to prevent an enactment, that, notwithstanding incorporation, the members of a trade union should not be able to bring any action against the union for a breach of any of its rules?—It could be inserted, of course, even though there were incorporation.

354. I mean to say, incorporation does not necessarily involve liability of the union to its own members for breach of its rules?—No, not necessarily. Incorporation would not prevent an enactment being made that rules should not be enforced by members against the trade union.

355. You might have rules providing in express words that members of the union should have no right of action against the union for breach of its rules?—The provisions of Section 4 of the Act of 1871 could be enforced.

356. (*Chairman.*) I was going to say there would be no difficulty in putting in the provisions of the Act of 1871?—No.

357. (*Mr. Cohen.*) There are two elements involved in incorporation, and it seems now that the main objections which were raised to incorporation no longer exist?—Two very important elements would be eliminated by that course.

358. If you look to that case in 2 Swanston, the *Meux case*, you will find at page 382, that the Vice-Chancellor relies upon earlier cases which are decided, that a class action will be allowed to plaintiffs who are very numerous. Lord Lindley spoke about the case of a great number of persons who could not be made defendants. If you look at the second volume of Swanston you will find that the Vice-Chancellor says that there have been many cases in which a great number of plaintiffs have been allowed to be represented by one or two persons, and to sue in the name of those two persons. Have you come across that?—I have not got Swanston here. I know he says that people have been sued by representatives of creditors, legatees, parishioners, on a modus, and a king's share in the New River Company.

359. I am speaking of the passage in which he says that where the persons who have been injured are very numerous, a class action has been allowed to be brought in the name of one or two persons representing the plaintiffs; at page 382 of the report you will find he says that. So that, in fact, class actions apply just as much in the case of numerous plaintiffs as in the case of numerous defendants?—Yes.

360. It is a matter of procedure. If the reasoning of Lord Lindley is correct, then it would apply to the case of numerous plaintiffs as well as to the case of numerous defendants?—Yes, as Sir George Jessel said in the *Epping Forest case*: "It is not a question of substance but of mere form. The use of the name in legal proceedings imposes no duties, and alters no rights; it is only a more convenient method of proceeding than that which would have to be adopted if the name could not be used."

361. (*Sir Godfrey Lushington.*) What is the reference to that?—1876, 3 Chancery Division, 615.

362. (*Mr. Cohen.*) You know the great importance attributed by both the Report of the Royal Commission on Labour, and the Report of the Commission over which Sir William Erle presided, to arbitration and conciliation, and also the great importance attributed to sliding scales and wages boards in the Report of the first-named Commission?—Yes.

363. Now, to render arbitration for all these purposes something like effective, collective bargainings or agreements are necessary, are they not?—Yes, in one sense,

Mr. G. R.
Askwith.

27 Apr. 1904.

Mr. G. R.
Askwith.
—
27 Apr. 1904
—

I suppose so. In arbitrations in trade disputes, as a rule of course, the executive power is given to a few people who purport to act on behalf of the whole, and as a rule the whole consider themselves bound.

364. And unless the trade union could control its members, you could not have effective arrangements made between employers and the great body of workmen?—No; the best arrangements are always made when the trade union is strong.

365. There are many passages you remember in the Report of the Royal Commission on Labour, in which they point out the advantages of a strong trade union as distinguished from a weak association of workmen?—Yes, and that in practice is undoubtedly the case; it is very important for masters to have somebody whose word or whose strength in controlling their members they can rely upon.

366. Now, the fourth section of the Act of 1871 would prevent any action being brought upon an agreement between an association of employers and an association of workmen?—Yes, that is the section.

367. If that were repealed, as regards agreements between associations of employers and associations of workmen, then there would be nothing to prevent a trade union of employers bringing an action against a trade union of workmen?—Or making contracts.

368. Yes, or making contracts?—Yes, that would be so.

369. And for that purpose incorporation would not be absolutely necessary although it might be convenient?—It would only make it more convenient—perhaps apparently bind the parties more closely.

370. And it may therefore be worth while to consider whether it would not be expedient to allow actions or agreements between an association of employers and an association of workmen?—I do not suppose that there would be the same objection to that as would be felt against actions within one body or the other.

371. No, it is something quite different?—It stands upon a different basis.

372. And you will remember, I daresay, that in a separate Report made by the majority of the members of the Royal Commission on Labour, they point out advantages which would ensue if agreements such as I have referred to could be made binding?—Yes, they do.

373. At that time they thought that a trade union could not sue in its own name, evidently?—That is clear, I think.

374. Now that we know that trade unions can sue in their own name, or in the name of representatives, a great difficulty would seem to have been eliminated?—It has cleared away the particular argument in that Report on that point.

375. You have had great experience in connection with arbitrations?—Yes.

376. If a trade union of employers were incorporated, and a trade union of workmen were incorporated, you could, but for Section 4 of the Act of 1871, have legal binding agreements between unions of employers and unions of workmen?—Yes.

377. That would be a great advantage, would it not?—I think it would make agreements that were made between the parties more formal and—I do not like to say more likely to be kept, but would give them a legal sanction.

378. It would give a legal sanction to them?—Yes; in some cases where there have been Conciliation Boards, for instance, particularly in the boot and shoe trade, a sum of money has been lodged with trustees to abide the decision in the event of either party breaking through the agreement that has been made. Only the other day there was a dispute in that trade, and one side was fined £5 by the umpire for having broken the contract; but that sum remains, supplied by both sides, in order to give effective damages, supposing either side breaks the contract.

379. Now I said, I think, before, that that could be done if Section 4 were repealed?—Or if an exception was made in favour of particular classes.

380. Or, as you say, if exceptions were made in favour of agreements between associations of employers and associations of workmen?—Yes.

381. Incorporation would not be necessary for effecting the same object, because according to the cases cited by Lord Lindley a class action might be brought even if the action were brought in the name of the union?—Yes.

382. (*Mr. Sidney Webb.*) In all that you have been so usefully giving us, you have been applying yourself merely to what you believe to be the state of the law, quite without reference to what it is desirable in public policy that the law should be?—Quite so. I have been trying to say as far as possible what the law is, and have referred to the cases in order that the Commissioners may start from the stand-point, as it were, of knowing what the law is before (when you know what the law is) considering what changes should be made in it.

383. You would not wish us to draw any inference as to your own opinion that the law as it stands was desirable or undesirable?—I have not expressed any opinion one way or the other.

384. And in view of the fact that circumstances are constantly changing, it may quite well be that it is desirable the law should be altered even if the law fitted the case of the previous generation?—I quite agree with that.

385. At present, as I understand it, the effect of the judgments is to make both the members of the trade union liable in a class action as individuals, as joint owners, and also to make the trade union liable as if it were a corporate body. It would be possible, that is to say, to enforce a judgment both against any individual member singly and against the trade union collectively?—Against the individual member for funds outside the trade union fund?

386. Yes?—If you mean personal liability, I do not think so if they were sued as a trade union.

387. That is to say, they are liable then only for their partnership funds?—Yes.

388. But supposing the partnership funds were insufficient, would they not then be liable for the balance in their own funds?—Not if they were sued as a trade union.

389. But supposing they were sued in a class action as an unregistered union?

390. (*Chairman.*) Is it not the fact that the effect of the principle laid down in the judgment in the Taff Vale case is, that a trade union member is not only liable to have the funds of his trade union taken for the torts of an officer of the trade union, but is also individually not entitled to the protection for his individual funds which he would have if he was either a corporator or a corporation or a member of a limited liability company?—Taking the principle of the Taff Vale case to apply to unregistered trade unions, it appears to me that a member of an unregistered trade union is in a very bad position indeed as regards liability, and that he would be much safer if his union was incorporated.

391. (*Mr. Sidney Webb.*) But one step further, also a registered trade union equally. Is there anything in the registration of a trade union to limit the liability of a member of that trade union for possible individual responsibility for torts committed by an agent of that trade union?—It would depend upon the rules if the trade union was incorporated.

392. (*Sir Godfrey Lushington.*) Whatever the liability of a trade union is, it is derived from the general law as to tort and agency exclusively and not from the trade union law, except in this respect, that the trade union law does to a certain degree mitigate the liability. I refer to both the Act of 1871 and the Act of 1875; but in no case does it increase the liability?—I do not think it does increase the liability at all. You may say that in one sense it limits it.

393. I will pass now, if you please, to the subject of peaceful persuading. You told us, I think, with respect to this subject that the Act of 1825 created the offence of molestation and obstruction without giving any definition of those terms?—No definition was given in that Act.

394. And you told us that in interpreting the Act there were different views taken as to whether peaceful persuasion did or did not constitute an offence?—I alluded to some cases.

395. You contrasted the cases, I think, of *Reg. v. Selsby* and *Reg. v. Rowlands*?—Yes.

396. Then came the Act of 1859, which expressly allowed peaceful persuasion in a limited class of cases, namely, cases of dispute over hours and wages?—Yes, I cited the section of the Act.

397. Then you told us, I think—I am not sure—of the Act of 1871 which created the offence of molestation or obstruction with a view to compelling a master to dismiss an apprentice, and so on?—Yes.

398. It contained a definition of molestation and obstruction which included watching and besetting, did it not?—In that Act?

399. Yes, in that Act?—Does it?

400. The Criminal Law Amendment Act, 1871-34-35, Vict. c. 32, Sec. 52, provides for the punishment of "Every person who shall do any one or more of the following Acts, that is to say. . . (3) Molest or obstruct any person in manner defined by this section, with a view to coerce such person. (1) Being a master to dismiss," etc.; and then it says: "A person shall for the purposes of this Act be deemed to molest or obstruct another person in any of the following cases"; and case (3) is: "If he watch or beset the house," and so on?—Yes.

401. Therefore you agree that the offence of molestation included watching and besetting?—Yes.

402. I will read it: "If he watch or beset the house or other place where such person resides or works, or carries on business, or happens to be, or the approach to such house or place, or if with two or more persons he follow such person in a disorderly manner in or through any street or road." There was no exception in the Act, was there, allowed either for giving or for obtaining information?—No, information was not mentioned in that Act.

403. Or for peaceful persuading?—No.

404. Then I think you told us of Mr. Russell Gurney's charge in 1875?—That was a charge given under the Act of 1871.

405. In which he held, or advised the jury, that under the Act of 1871, practically peaceful persuading was permissible?—That was so.

406. Then we come to the present Act of 1875; and Section 7 in the Act is very much on the lines, is it not, of the provision in the Act of 1871?—Yes.

407. That Section makes liable to punishment "every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority. . . watches or besets the house, or other place, where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place"?—Yes.

408. Therefore the Act does prohibit a person or persons watching and besetting with a view to compel?—Those are the words of the Act.

409. "To compel," does that mean anything more than to induce the person to do something against his will?—I should not like to define it exactly. I should think that would be a good definition of those words.

410. But then there follows, does there not, in this Act of 1875 a special qualification, viz., that "attending at or near the house or place where a person resides," etc., "in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section"?—Yes, those are the closing words of the section.

411. As the Bill passed through Parliament, I think you told us the Government were pressed to insert words putting peaceful persuasion on the same footing as communicating or obtaining information, and that the Government refused on the ground that that was already implied by the terms of the Bill?—That appears from the report in *Hansard*.

412. But *Lyons v. Wilkins* has determined that that was not implied?—So I understand.

413. Therefore workmen have this grievance, that the Act does not protect them in a case where the Government assured them that it would protect them?—In one sense you may say there was almost a parliamentary contract

that peaceful persuading should be allowed; but whatever the arrangement was, or whatever the understanding was, peaceful persuading is not allowed now since the case of *Lyons v. Wilkins*.

414. But of course it is for the Commission to consider whether they would recommend an amendment of the Act in either sense, either tightening or relaxing?—Yes; but as the Act now stands it has been held that peaceful persuading is not legal.

415. Now take the law as it stands in respect to peaceful persuading. It would not be correct, would it, to say that the law makes criminal peaceful persuading pure and simple?—No; but the difficulty is this; that you cannot have a strike, you cannot have peaceful persuading without its being with a view to compel, or without its implying watching and besetting.

416. But more than that; there must be a view of compulsion?—Yes, whatever that may mean.

417. Then there must be something more, must there not, than peaceful persuading?—If you take peaceful persuading absolutely *per se*, without any view to compel, then perhaps in the abstract it is right to say that it is legal; but taking peaceful persuading in the ordinary sense of the term, it must always be with a view to compel. There is no other object, there could be no other object of persuading.

418. But my point is that in a case of peaceful persuading in order to constitute an offence there must not only be a view to compel, but also there must be a watching and besetting of the house; there is no offence otherwise?—No, but I do not see myself how practically peaceful persuading can take place unless watching and besetting of the house takes place at the same time. The person must go there to peacefully persuade; and if he goes there he watches and besets.

419. But going to a place is not the same thing as watching and besetting?—When a strike is going on I think it is.

420. (*Mr. Cohen.*) It has been ruled that it does not matter how short the time is?—Yes.

421. (*Sir Godfrey Lushington.*) At any rate, you admit that in order to constitute an offence there must be not only peaceful persuading, but peaceful persuading with a view to compel, and carried on by persons who are watching and besetting the house?—Yes.

422. Without asking you to explain that provision in all its bearings, you will admit that that is not quite the same thing as simply declaring peaceful persuading to be an offence in itself?—Not quite the same thing, but in practice very near it.

423. Now what would be the effect of amending the section in the way that has been suggested, that is to say, of putting peaceful persuading upon the same footing as obtaining and communicating information. Would not the effect of the penal provision be this: that attending the house with the sole immediate object of peacefully persuading, would not be an offence, although there was an ulterior object to compel. Is not that correct?—Yes, I think that is so.

424. Because there must be that ulterior object of compelling—whatever that means; if not there would be no offence under the Act?—No; that is the wording of the Act.

425. Peaceful persuasion has a gentle sound, but you can understand, can you not, that employers might object to it when it takes the form of attending at the house and using peaceful persuasion with a view to compel and to induce the master to make some alteration in his business?—Yes; and I should think employers would also object to the attending at the house, as it is in the Act at present. It would be possible to abolish those words at the end of that section, which would get over the great difficulty of employers; or it would be possible to put in an allowance of peaceful persuading in those words at the end of the section; and in practice if people are once allowed to go and give information, I do not believe there is the slightest difference in the coercion that they may employ between peaceful persuading and giving information. I have seen the thing done over and over again, and the way in which the information is given is quite as effective for any coercive purposes as a considerable amount of peaceful persuading.

Mr. G. K. Askwith.

27 Apr. 1904.

Mr. G. R.
Askwith.

27 Apr. 1904.

426. I propose to ask you some questions presently as to the giving and receiving of information; but at present I would ask you to consider what it is that the law would allow, if it was amended with respect to peaceful persuading in the way which is proposed. It would be no offence, would it, supposing the law was so amended, for two pickets to be posted in attendance at a shop to peacefully persuade workmen as they come in and go out?—I think it would depend how long the pickets were there, and how often they were there.

427. But why so? If the Act allows, as suggested, the attending at the house with a view to peacefully persuade and also with the further view to compel, how can you make it out to be an offence?—They might be protected so far as the Act goes, but I am not sure that they would not be liable for a nuisance outside the Act if they remained there.

428. Reserving the question of nuisance, and going simply upon the words of the Act, how often could such peaceful persuasion be exercised on each workman. I put it to you: if persons are attending at the shop there would certainly be an opportunity of peacefully persuading twice a day?—Possibly.

429. Perhaps, almost certainly, four times, if the workers went out for their dinner?—Yes, in the same way as there would be an opportunity of giving information.

430. And perhaps oftener than four times?—There might be. They take advantage of every opportunity.

431. And how long might this go on; might it not go on for weeks or for months?—There would be nothing unless limits were put in the Act to restrain them.

432. The Act imposes no limit whatever?—There is no limit under the Act.

433. Again, would the Act, if amended as proposed, impose any limit as to the number of persons who might peacefully persuade?—It depends upon how the Act is amended; but if the wording of the Act stands as it does at present, with only the addition of peaceful persuading, then there is no limitation in the Act as to the number.

434. The Act if amended as suggested would permit of, for instance, ten new arrivals to be met at the railway by 100 strikers all anxious peacefully to persuade those gentlemen to go back again?—So far as the Act goes that might be legal; but I think the 100 strikers could be proceeded against outside the Act on several grounds.

435. I believe in a classical volume the phrase exists: "Animated persuasion of blacklegs." I think you can understand that not being the pleasantest kind of welcome for workmen arriving in a town?—I am afraid if I was a working man going to obtain work in a town where a strike was going on, I should neither like to receive information nor peaceful persuasion.

436. Therefore, you can understand employers having some general ground for not wishing to see the statutory exemption extended to peaceful persuading?—There are grounds, certainly.

437. The Conspiracy Act is of perfectly general application, is it not?—Yes.

438. It is not limited to employers and workmen?—No.

439. Now, suppose this case: Supposing that the London and North Western Railway Company were waging a war with the Great Northern Company, as they have done before for the traffic to York; and supposing that the London and North Western Company posted pickets outside King's Cross who should be there all day long, and day after day peacefully persuade would-be passengers by the Great Northern to go on from King's Cross to Euston, what do you think would be the opinion of the Legislature or the public in such a case?—Unless there were special phrases put in this Act they would not be liable under the Act. I think they would probably be liable on other grounds outside the Act.

440. Have those other grounds, whatever they may be, been found hitherto sufficient to prevent annoyance?—Not from peaceful persuasion.

441. Now to consider another point, viz., the point of obtaining or receiving information as it stands in the section; what sort of information do you imagine is contemplated to be obtained; can you suggest what

that term means?—There is no definition of the term "information." Of course, *prima facie*, it means simply a notice of the existence of the strike; but a great deal is given under "communicating information."

442. May I suggest some kinds of information to be received; information of what wages the employer is giving, how many workmen he has got together, how he manages to carry on work without his usual staff of workmen, whether any more men are expected, where they are coming from; and when. Would that be the sort of information which these pickets could obtain?—The whole history of the strike might be given under the heading "information;" but in practice it is considerably abbreviated.

443. Then as regards the sort of information to be communicated. You have mentioned just now the fact that there is a strike on. It might be necessary, might it not, in the first instance, to warn the people not to accept employment?—Yes.

444. But might not the information to be communicated imply something more than that; for instance, might it comprise any representation of the harsh conduct of the employer which led to the strike?—Yes, it might do that.

445. Might it comprise that the great bulk of the workmen were on strike, and that the strikers were sure to win?—Yes.

446. Might it comprise any intimation to the workman what would be given to him if he joins the strike—strike pay, journey home gratis, and so on?—It is really difficult to limit the number of hypothetical things to which it might apply. In one sense you may say that giving information covers peaceful persuasion. It is almost impossible to draw the line between the two.

447. Might it comprise this, though: that they should inform the workman what will happen to him if he does not join the strike?—That is going rather far, I think.

448. Would that not be communicating information to him?—That is more of a threat.

449. Well, I should like to ask you this: Do you think that the topics of information which I have suggested as possible to be received or communicated appear to be, or can you yourself suggest any particular kind of information, the receipt or the communication of which appears to be a sufficient justification of watching and besetting?—I cannot define any particular kind.

450. You have had no experience of the actual conduct of a strike, have you?—Yes, several times.

451. Could you say, then, whether employers do not often put forward the complaint that communicating and receiving information as carried on by the workmen is really intimidation in disguise?—I think if you asked the employers they would almost all tell you that they object very strongly to that portion of Section 7 allowing of attendance merely to obtain information, and that it is very difficult to get outside that; that it does a good deal of harm. But that is admitted to be the law. If you ask employers who know anything about strikes, and have actually had strikes, whether it would do much harm to add "peaceful persuading" to "giving information," I fancy they would tell you that it would not.

452. But, on the other hand, they would tell you that the allowing of giving and receiving information was found to be a cloak and disguise to intimidation?—Yes, I think so. If you have "attending for the purpose of giving information," I do not think it matters a row of pins if you add "peaceful persuading" to it. If you take it away there is a different aspect.

453. Can you imagine a more favourable way of giving and receiving information than that of peaceful persuasion—I meant a more innocent way, one less obnoxious to the general law?—I think this provision, allowing attending to obtain or communicate information, is quite as obnoxious as allowing peaceful persuasion.

454. (Mr. Cohen.) The provisions contained in that section are really, in the great majority of cases, only applicable to workmen?—That is so.

455. You can conceive of a case which might apply to employers, but it would be a very extraordinary case indeed?—Yes.

456. It is therefore important that the provisions should be framed in clear and precise language?—Exactly.

457. And especially as now the funds of trade unions may be liable on account of some action done in violation of the provisions of that section?—Yes, that makes it more important for the unions now.

458. Now as regards intimidation, you know that the Commission that reported in 1894 recommended that instead of the words used in the first sub-section of section 7 of the Act, the following words should be inserted: "Uses or threatens to use violence to such other person or his wife or children, or injures his property"—omitting the ambiguous word 'intimidate.' They thought the word "intimidate" was very vague; they thought it had received a certain interpretation in the case of *Gibson v. Lawson*, and they thought the language should be made perfectly precise. "We can see no reason," they say, "why this should not be plainly expressed in the terms of the Act, rather than by words of reference which become clear, even to a lawyer only after consulting other books;" and then they recommend that these words should be substituted for the words in the first sub-section: "Uses or threatens to use violence to such other person, or his wife or children, or injures his property." I want just to read to you a passage which follows in that report; it is paragraph 334: "On the other hand it was suggested on the part of the employers that picketing is apt to become collective intimidation, and such intimidation is not the less effective, though not directly addressed to any person in particular; and a desire was expressed that the law might in some way be strengthened in order to meet this evil." This is what Sir Godfrey Lushington was rather putting to you. They say then: "We are of opinion, however, that the existing law is sufficient if impartially and firmly administered, but there is reason to doubt whether it is in all cases completely understood. Where the practice of 'picketing' exceeds the bounds of information and peaceable conversation, and takes the shape of besetting the entrance or approaches of a factory or works in a threatening manner, we are advised that, apart from any threats addressed to individuals, the offence of unlawful assembly is committed." Now one other paragraph which follows: "Assaulting or forcibly obstructing workmen desirous of entering the 'picketed' works is, of course, a breach of the peace; and if a picketing party shows a manifest intention to do such things, then every member of it will, we are advised, be guilty of the offence of unlawful assembly, even if no assault is actually committed. This appears to cover all cases which any law can well provide for, and we see no reason to believe that any practicable change in the law would make it more effective. In any case there must remain a great deal of moral compulsion or pressure which may in some cases be justifiable and in others not, but which positive law cannot usefully attempt to control. The law can and should protect the persons and property of these who dissent from the majority of their neighbours or fellow workers; it cannot compel the majority to have a good opinion of them." That is the Report of the Commission?—That was in the Report of the Commission of 1894, yes.

459. Now you understand *Lyons v. Wilkins* and *Charnock v. Court*, do you not, to have decided this: that picketing, if done with a view to coerce an employer, although unaccompanied with violence, threats, or intimidation, and although not amounting to a public or a private nuisance, is a criminal offence, and that the provision at the end of the section has no application to a case where picketing takes place with a view to coercing an employer. That is what was really decided, is it not? That although it is not a nuisance, private or public, still if picketing takes place with a view to coerce an employer, although unaccompanied with violence, intimidation, or illegal threats, it is a criminal offence. Is not that the *ratio decidendi*?—Something very near it.

460. I thought they said if the picketing was done with a view to coerce?—They said two things—that picketing practically implied watching and besetting—

461. That is one point?—And you could not have watching and besetting without a view to coerce.

462. Then they held that if it was done with a view to coercion, although unaccompanied with threats or

intimidation, and although not a private or public nuisance, still it was illegal because it was done with a view to coercion; that is what they held, is it not?—I think the decision came to that—that it was as strong as that.

463. (*Chairman.*) I do not think there is any point in the actual view of the word "coerce," because "coerce," I take it, in that context is simply written short for the words of the statute "compel another person to abstain from doing, or to do, any act which such other person has a legal right to do or abstain from doing"?—Yes; I assume Mr. Cohen to have taken the word "coerce" as an abbreviation only.

464. (*Mr. Cohen.*) That is all. I just want to put to you this case, if you will allow me. If the workmen in besetting the premises of A. cause a public nuisance by obstructing the highway, they would be liable, would they not, quite independent of the Act?—Independent of the Act, yes.

465. And an injunction could be obtained?—Yes.

466. In fact they would be indictable at common law, and an injunction could be obtained?—Yes.

467. Then if they were committing a private nuisance, for instance, if they were watching the house of some private individual constantly, rendering his life uncomfortable, that person could bring an action and could obtain an injunction?—Yes, I think so.

468. Now supposing no nuisance committed, and no intimidation, I want to know why should the workmen be held to be liable merely because they are trying to persuade other workmen not to take employment under a certain employer—on what grounds?—Whatever the ultimate design may be, it is exactly that which sticks in the throat of a large number of workmen—that the men object that for mere persuasion they should be liable as for a criminal action.

469. Take a case, which I think is an ordinary case, where workmen wish to persuade other workmen not to take employment under a certain employer A. If they commit no nuisance, if they are not guilty of uttering illegal threats, not guilty of intimidation, not guilty of a private nuisance, not guilty of a public nuisance, why should they be considered as committing an offence; can you suggest any reason?—On the face of it there is no reason.

470. I think there is only one more question I wish to ask you. In fact, if they are held guilty in such a case, it is really substantially peaceful persuading for which they are held guilty, because it was done with the view of inducing the workmen not to take employment under a certain employer?—Yes; if such a case occurred, it would be for peaceful persuasion.

471. Now, may it not be worth while to consider the expediency of Mr. Haldane's suggestion to this extent as applicable to this case: that the question of picketing should be dealt with on the principles of law applicable to private and public nuisances. Generally, if an illegal act is done, if three or four workmen join in an illegal assembly, or commit a riot, or commit a public or a private nuisance, they will be liable?—Yes.

472. Is it not worth while considering whether Mr. Haldane's suggestion might not be applied to this extent, I do not mean that you could generally apply it, but to this extent: that the question of picketing should be dealt with as a question of nuisance?—Do I understand you to suggest that this section should be repealed, and that a special Act of Parliament should be brought in?

473. That special provision should be made?—Not leaving it to the common law as it is at present, because I take it they are already liable for a nuisance.

474. Yes, you might leave it to the common law; that is what I mean, treating it as a nuisance, as Mr. Haldane suggests.

475. (*Chairman.*) There is no penalty for a private nuisance, is there?—No; you can claim damages.

476. (*Mr. Cohen.*) But you can obtain an injunction?—I do not know how far the trade unions would look upon that with favour. That would mean the repeal of this section.

477. (*Chairman.*) Not the whole section; only the sub-section of it, I suppose, as to watching or besetting?—

Mr. G. E.
Askwith.

27 Apr. 1904.

Mr. G. R. Askwith. That was thought to be going to do a great deal, but it has not done it.

27 Apr. 1904. 478. (Sir Godfrey Lushington.) What is the remedy in a case of public nuisance?—Like obstruction of a highway?

479. Indictment, is it not?—Yes.

480. And what is the remedy in the case of a private nuisance—an action at law?—Yes, an action at law, claiming an injunction and damages for any loss.

481. And what is the remedy in the case of illegal assembly?—That would be an indictment.

482. May we not suppose that the object of the Legislature in this enactment was to substitute a provision which could be enforced summarily, in the place of legal powers which can only be enforced by what is an extremely difficult and expensive process?—That may have been one of the reasons for the legislation, and, if I remember the debates aright, it was one of the reasons. It was

pointed out that this section does give power to a Court of Summary Jurisdiction to act; and, as you can very well understand, it would be most important in a case of this kind that there should be summary jurisdiction.

483. Would it not be true to say that practically a remedy by indictment would be illusory in these cases?—The section has also got indictment in a particular manner.

484. I did not mean that. A proceeding by indictment is an impracticable remedy?—It is too slow.

485. (Chairman.) But proceeding by way of an ordinary action would be even worse?—Yes.

486. I mean to say that proceedings to abate a nuisance and an injunction would be perfectly useless, because they would put on separate men each time, and you would have hundreds of actions.

487. (Mr. Cohen.) Have any proceedings been taken—and an injunction—do you know of any?—No.

SEVENTH DAY.

Thursday, 5th May, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair.*)

Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.
SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary.*)

Mr. G. R. ASKWITH recalled and further examined.

Mr. G. R. Askwith. 5 May 1904. 488. (Sir Godfrey Lushington.) I propose to ask you some questions on the law of conspiracy; are you prepared to give us a general definition of what conspiracy means?—It has been said in various cases to be the doing of a legal act by illegal means, or the doing of an illegal act by illegal means, or the doing of an illegal act by legal means.

489. Those words have been often and often repeated, but it is pretty clear, is it not, that "illegal" there means something more than that which is criminal or actionable?—In the famous definition in *Reg. v. Mulcahy* the word unlawful is not defined.

490. Would you say that it is conspiracy to combine to commit a crime?—Yes.

491. Any crime—any offence summarily punishable?—I suppose it would, yes.

492. If it was a trifling offence, the breach of bye-laws for instance, and two persons combine to make that breach, would that be a conspiracy?—I think there might be a conspiracy for doing that.

493. Would a combination to commit a breach of contract be conspiracy?—Yes, I think so.

494. Any contract?—I do not see where you can differentiate.

495. Would a combination to commit what is a tort in an individual be a conspiracy?—Yes, I think so.

496. Any tort whatever. I do not wish you to give a definite answer unless you feel you are in a position to do so?—It is difficult at the moment to fix any limitation that might exist; speaking broadly, I should say if an individual can commit a tort you can have a conspiracy to commit a tort, it is two or more agreeing to commit the same thing one person can commit.

497-8. Then can a combination to do something which is neither criminal, nor a breach of contract, nor a tort, ever be a conspiracy?—There you come to the point whether the agreement to commit the act may be in itself an unlawful conspiracy.

499. I am supposing the act is not a tort and not a breach of contract, and not a crime; nevertheless can an agreement

or combination to do that act constitute a conspiracy?—I think it has so been laid down; the conspiracy consists in numbers agreeing to do an act harmful to another and the agreement itself is the illegal element.

500. When Lord Macnaghten speaks of an oppressive combination, does he mean a combination to commit something which is either actionable or criminal?—That is a difficult question to answer; I should say that he did not necessarily.

501. I am still on the question of conspiracy, but I am going first of all to put to you some questions as to torts committed by individuals. Putting aside all torts which consist of doing something which is obviously in itself either criminal or tortious, and as to which there is no question, do you consider that acts that are in themselves not criminal or wrongful have for some other reason been held to be criminal or wrongful? Take the tort of trade interference. You know Sir William Erle's dictum?—Yes, I have read it.

502. As to the special protection which the Common Law grants to trade?—Sir William Erle made rather a strong statement upon that point which has been enforced by other judges since, and which was taken as the foundation of Lord Esher's judgment in the *Mogul* case.

503. (Mr. Cohen.) But it has been denied by other judges?—Yes.

504. (Sir Godfrey Lushington.) In *Allen v. Flood* was that dictum of Sir William Erle's that traders were more closely protected than other persons not negatived?—Some of the judges spoke very strongly in its favour, and others as warmly against it.

505. Do you consider that that doctrine was negatived or not in *Allen v. Flood* in the House of Lords?—If you take the dicta of the judges, and not the absolute decision, the dicta of the majority were against it.

506. Since that time in *Quinn v. Leathem* has Sir William Erle's dictum been quoted with approval in the House of Lords?—Yes, some of the Lords spoke of it with favour as if it had not been touched at all by *Allen v. Flood*.

507. Lord Brampton?—Lord Brampton, and I think Lord Shand too.

508. (*Mr. Cohen.*) I think Lord Davey?—No, I think it was Lord Shand.

509. (*Sir Godfrey Lushington.*) Do you know whether Mr. Justice Vaughan Williams in the case of *Giblan v. The Labourers' Union* also referred with approval to Sir William Erle's dictum?—Yes, he did.

510. Then is it or is it not the law that traders have special protection?—Taking the dicta, I think they are contradictory.

511. And if there is special protection for traders, is it only for traders who are employers, or does it extend also to traders who are workmen?—Taking Sir William Erle's dictum?

512. Yes?—Sir William Erle purported to bring in both parties.

513. And do you think that that dictum does apply to both parties?—It has not in the cases that have come out apparently applied so plainly to workmen as it has to employers.

514. Do you know any case in which that dictum has been appealed to by labourers, and where the appeal has been listened to?—In what you might call a labourers' case?

515. Yes?—No, I think not; in other cases it has been said that it applies to workmen equally, as for instance, when it was quoted in the *Mogul* case.

516. Then another alleged tort: you know Lord Esher's theory that malice renders a lawful act unlawful?—Yes, he used that dictum in *Bowen v. Hall* and also in *Temperton v. Russell*.

517. Was that dictum negatived in *Allen v. Flood*?—Everyone thought so; yes, I should say.

518. And was it negatived again in *Quinn v. Leatham*? Yes, it was.

519. May we say then that that dictum is dead?—I should say it was.

520. That malice in the individual agent cannot alter the legal quality of an act?—In the sense of the motive of the mind.

521. Take a third kind of tort: you remember Lord Bowen's ruling in the *Mogul* case that the law recognises it as a tort for an individual to do something which, although it is neither criminal nor actionable in itself, yet is injurious—that is to say, is done with the intention to hurt and does do hurt?—Yes, he founds his argument by starting with what the individual may do.

522. (*Mr. Cohen.*) "Intentionally to do that which is calculated in the ordinary course of events to damage and which does in fact damage another in that other person's property or trade, is actionable if done without just cause or excuse." (Page 613, 23 Q.B.D., 1889.)

523. (*Sir Godfrey Lushington.*) Was that negatived in *Allen v. Flood*?—If that was Lord Bowen's meaning, that it referred to motive; of course that statement of his was criticised by Lord Herschell in *Allen v. Flood*, and Lord Watson rather argued that he did not mean what at first sight would appear.

524. Lord Bowen in the *Mogul* case does lay down, does he not, that for an individual to do something, with an intention to hurt will be doing an actionable thing unless he can show justification?—His words have been just read.

525. Was that principle rejected by *Allen v. Flood*?—Yes, if you take the remarks of the majority.

526. In *Quinn v. Leatham* did not the Lord Chancellor say that *Allen v. Flood* had made nothing lawful which before was unlawful?—He said he did not agree with the Chief Baron that *Allen v. Flood* had altered the law in certain respects, and made that lawful which would have clearly been actionable before the decision of that case.

527. And Lord Lindley said that there was no contradiction between Lord Bowen's ruling and *Allen v. Flood*?—Yes, the meaning of *Allen v. Flood* was confined by the remarks in that case; you may say that the absolute decision was something different to any overthrow of Lord Bowen's idea, but the dicta of some of the judges were against the apparent argument that Lord Bowen had used.

528. The ultimate question I want to put to you is, whether Lord Bowen's judgment in the *Mogul* case, so far as it relates to individuals, is now good law or not?

529. (*Mr. Cohen.*) I find that in *Quinn v. Leatham* Lord Lindley says, "*Allen v. Flood* firmly established the far-reaching and important proposition that an Act otherwise lawful, although harmful, does not become actionable by being done maliciously in the sense of proceeding from a bad motive." Is not that inconsistent with what Lord Justice Bowen said in the *Mogul* case?—Of course it is very difficult to decide absolutely what Lord Bowen did mean in the *Mogul* case, because it has been debated, and one set of judges say he meant one thing, and another say he meant another thing.

530. (*Sir Godfrey Lushington.*) Lord Lindley also says most distinctly that he thinks there is no contradiction between Lord Bowen's ruling and *Allen v. Flood*: "The cases collected in the old books on actions on the case and the illustrations given by the late Lord Justice Bowen in his admirable judgment in the *Mogul Steamship Company's* case may be referred to in support of the foregoing conclusion, and I do not understand the decision in *Allen v. Flood* to be opposed to it"—Yes.

531. In *Giblan v. The National Labourers' Union*, do not the judges, Lord Justice Romer and Lord Justice Stirling, recognise such a tort by an individual—I mean the tort of intentional damage?—Yes, I think they do. Lord Justice Romer said that it was not essential that the plaintiff should establish a combination of two or more persons to do the acts complained of.

532. Then we go back to the starting-point. Is the doctrine that in the case of an individual defendant there may be a tort of intentional damage, as laid down by Lord Bowen in the *Mogul* case, law now or not?—There are strong dicta throwing considerable doubt upon the proposition as put by you; there are equally strong dicta in its favour.

533. Now to pass to the subject of the conspiracy to injure: Lord Macnaghten, in *Quinn v. Leatham*, says that the law does recognise a conspiracy to injure in the absence of justification, does he not?—Yes, he makes some long remarks upon that point at page 510 of 1901 Appeal Cases.

534. Is it not the usual course in an action for tort for the plaintiff first of all to prove the *prima facie* tort, and then to leave it to the defendant, if he can, to prove just cause or excuse?—Yes.

535. That is the invariable scheme of an action at law?—Yes, I think that describes it.

536. If that be so, applying that to the conspiracy to injure, the *prima facie* conspiracy apart from the justification is simply a combination to do an act of intentional damage?—Yes.

537. That category is enormously wide, is it not?—Very wide indeed; it leaves it entirely to the courts to decide, as Lord Justice Bowen remarked, on which side of the line cases came.

538. That is the justification, but I am speaking of the act itself—an act of intentional damage is a very comprehensive term, is it not?—Once found that there is an intent to damage, you get into the difficulty of the justification.

539. The difficulty I refer to is the entire absence of limit with regard to the act; any act whatever which does harm, if done in combination, is *prima facie* a conspiracy, according to that?—It is an extremely broad definition.

540. It would not go so far as to comprehend, I suppose, an act which does harm but which at the same time is the exercise of a proprietary right?—No, I do not suppose it would.

541. A person is entitled to exercise his proprietary right irrespective of the consequence to other persons?—Well, there is the maxim, *Sic utere tuo ut alienum non laedas*.

542. Did Lord Macnaghten in *Quinn v. Leatham*, when he said that the law recognises a conspiracy to injure, suggest that there was any limitation on the meaning of the words "to injure"?—No, I think not; the words are these: "Does a conspiracy to injure resulting in damage give rise to civil liability? It seems to me that there is

Mr. G. R. Askwith.

5 May 1904.

Mr. G. R. authority for that proposition, and that it is founded
Askwith. in good sense," and then he goes on with a number of
authorities.

5 May 1904.

543. (Chairman.) I suppose the practical limitation would be supposed to rest in the common sense of the jury or other tribunal?—Yes.

544. (Sir Godfrey Lushington.) That then raises the question whether a combination of two or more persons to do anything which to the judge and jury seems to be objectionable is a conspiracy?—That might be held, if there are no adequate limitations.

545. The law of conspiracy to injure you will admit is a very wide spreading and universal law?—There have been no practical limitations laid down in the courts at present.

546. And you will also agree that according to the judgments in the House of Lords and elsewhere the law of conspiracy to injure arises from the common law?—Yes.

547. Therefore we may say it is as old as the hills?—Yes, it might be said to be in the armoury of the law.

548. Now to what extent has this universal, unlimited, and extremely ancient law been put in operation in the course of the history of centuries?—There were a certain number of cases alluded to by Lord Macnaghten, starting with *Gregory v. the Duke of Brunswick*, and I think there were a certain number of cases alluded to, rather upon the point of conspiracy and trade interference, in *Allen v. Flood*, both by the judges and by the Lords.

549. There have been a certain number of cases of political boycotting in Ireland, have there not?—Yes.

550. And of cases not connected with trade there is *Gregory v. the Duke of Brunswick*?—Yes.

551. Will you describe that case?—That was a case of hissing in a theatre.

552. A combination to hiss in a theatre and to create a riot?—Yes.

553. Do you know the case of *Kearney v. Lloyd*?—Yes, *Kearney v. Lloyd* came after *Allen v. Flood* and was decided by one of the judges from what he understood to be the meaning of *Allen v. Flood*. It was a case in Ireland with regard to people abstaining from subscribing to a sustentation fund in a parish, and it was argued before Chief Baron Palles and Mr. Justice Andrews.

554. Were those two cases which were not concerned with trade, *Gregory v. the Duke of Brunswick* and *Kearney v. Lloyd*, both proceedings under this general law of conspiracy, successful?—Lord Macnaghten says there are others.

555. But were those cases successful? Did the plaintiff recover?—Not in *Gregory v. the Duke of Brunswick*.

556. Nor in *Kearney v. Lloyd*?—I think not.

557. (Mr. Cohen.) In *Kearney v. Lloyd* the Chief Baron said "If anything is well settled in law it is that, in cases of this description," that is so-called actions for conspiracy, "in which the old writ of conspiracy did not lie, the gist of the action is not the conspiracy itself, but the wrongful acts done in pursuance of it. The cause of action must exist although the allegation of conspiracy be struck out?"—That comes to this, that two or more conspiring together cannot be liable unless there are wrongful acts for which one man would be liable.

558. (Sir Godfrey Lushington.) I am not now on the question of what is the law; I am on the question of to what extent the law has been carried out in history. In the two cases which were not immediately connected with labour, *Gregory v. the Duke of Brunswick* and *Kearney v. Lloyd*, an attempt was made to enforce the law, which failed. Is not that so?—Yes. Of course the law, prior to 1871, was complicated by the question of restraint of trade; all the cases are quoted in Mr. Justice Wright's book on "Conspiracy" and he examines them.

559. The cases which Mr. Justice Wright refers to in his book, are referred to with a view to negative the existence in law, of a conspiracy to injure?—Well, Mr. Justice Wright examines every case of conspiracy of which there is any report in any legal document that he can find during the course of English history, and there is no finding of a conspiracy to injure as the result.

560. In the case of trade disputes, what instances are there in which this law of conspiracy to injure has been attempted to be enforced against traders or employers?—By rival traders and employers or by workmen.

561. By anybody?—There is the Mogul case.

562. That is one; and do you know the Glasgow Fishers' case?—Yes.

563. Do you know Bulcock's case?—Yes.

564. Those are three cases in which this law of conspiracy to injure was attempted to be enforced against employers; were the proceedings successful?—No, I do not think they were in any of them.

565. They failed in every case. Can you state a case in which the law has been successfully enforced against masters?—On the ground of conspiracy to injure only?

566. Yes, I am on that entirely?—Not one on the ground of conspiracy to injure only. It has been brought in the action as an addition to other suggestions against the employer; everyday it is put in.

567. But you do not know a single case in which masters have been found responsible for a conspiracy to injure?—Not on the ground of conspiracy to injure only.

568. Then how is it with the workmen? Have there been any cases against the workmen?—There is *Quinn v. Leatham* which was said not to be a trade dispute and there have been other cases that I have mentioned in the course of my evidence.

569. There have been these numerous cases in which workmen, but none in which two or more employers have been found civilly responsible for conspiracy to injure?—No, I think not.

570. Do you not think then it is rather perplexing to workmen to be told that there is such a wide sweeping law in existence as conspiracy to injure, but which at the same time in the whole course of history has produced no effective case against masters, although in the last few years it has produced a number of cases against workmen?—Undoubtedly, and if you come to possible criminal liability, it becomes still more serious.

571. Do you consider that workmen have a right to strike?—Yes.

572. Do you consider that the right of strike is as absolute a right as a proprietary right?—That is rather a broad way of putting it, is it not?

573. I will put it in more detail. Before striking has a workman to ask anybody's leave?—No.

574. Is he at liberty to strike for any motive whatever?—I do not know of any limitation at the moment.

575. Has anybody a right to interfere with him to prevent him from striking?—No, the right to strike is *per se* legal.

576. Absolutely unlimited. Do you know of any case in which workmen combining to strike have been stopped by injunction or been successfully sued for damages?—No. I presume by striking, in the sense in which you are using it, you mean leaving work?

577. Yes, combining to leave work?—Yes, without breaking contracts.

578. (Mr. Cohen.) Do you know of no prosecutions before 1871?—That was a different matter before 1871.

579. (Sir Godfrey Lushington.) Do you know of any case since 1871 in which workmen for merely combining to strike, to cease work, have been stopped by injunction or been successfully sued for damages?—No.

580. If there is a right to strike, then inducing men to strike is inducing them to exercise their right?—Yes. That was remarked, I think, in *Allen v. Flood* by one of the Lords.

581. Do you know Lord Macnaghten's words in *Allen v. Flood*?—On page 151 of 1898 Appeal Cases, Lord Macnaghten says "I do not think that there is any foundation in good sense or in authority for the proposition that a person who suffers loss by reason of another doing or not doing some act which that other is entitled to do or to abstain from doing at his own will and pleasure, whatever his real motive may be, has a remedy against a third person who, by persuasion or some other means not in itself unlawful, has brought about the act or omission from which the loss comes, even though it could be proved

that such person was actuated by malice towards the plaintiff, and that his conduct if it could be inquired into was without justification or excuse."

582. Do you think those remarks are limited to individuals, or do they extend to persons acting in combination?—I should say they were perfectly general.

583. Do you consider that to be law now?—There have been remarks by Lord Lindley, I think, in *Quinn v. Leatham* which go the other way.

584. Before you go to *Quinn v. Leatham* would you take *Lyons v. Wilkins*?—There are the remarks of Lord Justice Kay on the one side, and Lord Justice A. L. Smith on the other; they are both given upon the assumption that the words of the Act gave the only permission which allowed such inducement.

585. Do they not lay it down in a broad way that whilst workmen may strike, they are not at liberty to do anything more than strike?—Lord Justice Kay says, "Still more clearly is it illegal to induce a man or to prevent a man in the position of Schoenthal from working for the plaintiff by calling out the workmen of that man, and inducing them not to work for him, that being done for the purpose of putting pressure both upon Schoenthal and upon Messrs. Lyons, by preventing Schoenthal from working for Messrs. Lyons. I cannot read Section 7 without seeing distinctly that those things are not permissible by this Act of Parliament, and no Act of Parliament can be referred to which makes them lawful."

586. Would the effect of that be, that in a strike where there is a contest going on between the employer and workmen, the employer should be free to persuade workmen to enter his service, but that strikers should not be free to dissuade them. Is not that the effect of those observations in *Lyons v. Wilkins*?—Speaking generally, it might come to that; of course you might get a condition of affairs in which employers, by inducing workmen to come into their service, might be liable for conspiracy if they took away the workmen of other people.

587. More than that; if the employer persuades workmen to enter into his services so as to carry on the business in spite of the strike, does not every such act of the employer necessarily tend to injure—as it seems in the eyes of the workmen—workmen's interests?—Yes, of course it does; the employer simply takes other labourers instead of them; he cannot carry on his work without doing so, but from the point of view of the man who is turned out, or who is on strike, and in whose place somebody else is taken, of course it is an injury to him.

588. If there is a battle going on between two persons, you cannot help one without injuring the other?—No.

589. It is for workmen, is it not, to say for themselves whether they like to enter employment?—Yes.

590. And have the workmen on strike as good an interest to dissuade workmen from taking work as an employer has to persuade them to take work?—They consider it is for their advantage in order to carry out the strike.

591. There is a substantial interest at stake?—I think I ought to qualify my previous answer to a certain extent by saying that I assume you mean an abstract interest, not interest in the sense of a right that can be legally employed.

592. You agree that masters and men have each an interest?—Yes.

593. And therefore the workmen have a substantial interest in trying to induce other workmen not to work?—It is one of the methods by which, in fact, they can only carry on the strike to any effective conclusion from their point of view.

594. If the workmen are not to be permitted to induce others to refuse to enter the employment of a master, do you think it would be possible to carry on any strike effectually?—No, I think not.

595. Then Lord Lindley's ruling would absolutely make once for all, all strikes ineffective?—Lord Lindley's remarks—and perhaps purposely, at the commencement of his judgment in *Lyons v. Wilkins*—point out the very great limitation which exists with regard to the law as to the conduct of strikes. I am not saying whether it should be altered or not, or whether it is absolutely correct or not, but he shows what the mode of decision by some of the judges may be considered to be,

596. What do you conceive to be the operation of Lord Macnaghten's decision upon previous decisions which I will mention—do you consider that Lord Macnaghten's decision is a confirmation of *R. v. Drutt*?—*R. v. Drutt* was thrown over by subsequent legislation and appeared to have vanished; the breadth of Lord Macnaghten's judgment seems rather to point to the doctrine in *R. v. Drutt* still existing.

597. Therefore *R. v. Drutt*, you would suppose, is still good law. That was a case of molestation, but it did not amount to statutory molestation?—No, Lord Bramwell was the judge who tried it, and I daresay I could give you his words.

598. I should be right in saying, should I not, that the effect of Lord Macnaghten's ruling is, that the combination of two or more persons to molest would be a conspiracy, although the molestation was not statutory molestation?—The dictum is wide enough for that.

599. Then would it be a conspiracy to do something less than molestation—simply to do something which would interfere with the employer in regulating his business? Would that be an injurious conspiracy?—It might be.

600. On what would it depend?—There is no limitation laid down.

601. It would then depend on the determination of the judge and the jury?—Yes, and the damage that was done.

602. Yes, but on the judgment which the judge and jury might form on consideration of all the circumstances?—Yes, and if you take Mr. Haldane's view, a nuisance being a mode of deciding by the judge and jury, he suggests that should be the mode of decision.

603. Is the effect of Lord Macnaghten's ruling to uphold the cases of *R. v. Rowlands* and *R. v. Bunn*? You remember those cases?—Yes. I do not think Lord Macnaghten, if his mind had been set upon its being said that he upheld the decisions in those cases, would have accepted the position, but those cases, by the width of his dictum, may be to a certain extent, I suppose, said to be upheld by it.

604. This is a practical question. I want to understand this. If workmen combine to do anything the object of which would be to interfere with the employer in regulating his business, would that be an act of conspiracy?—According to the length to which some of the *dicta* have gone, I think there would be a liability of an action being brought for conspiracy.

605. What can a workman say if he is told his liability depends according to the weight to be given to some *dicta* of the judges?—Of course, that is the difficulty from the point of view of the workman; he wants to know what the law clearly is, and the *dicta* in these cases, if you take the *dicta* only, are, in my humble judgment, very contradictory indeed.

606. The *dicta* are contradictory and some of them go to the length of logically upholding the decisions in *R. v. Rowlands* and *R. v. Bunn*, wherein the fact of combining to interfere with the action of an employer was said to have constituted conspiracy?—I think it might be so argued.

607. Is it true that every strike that has ever existed has been hurtful to the employer and has been intended to be so?—Yes, I suppose so.

608. Then these *dicta* you have mentioned would go to the extent at once of declaring every strike a conspiracy; as a combination to do something which is hurtful to the employer?—They would lead up to the view that seems to have been taken by Lord Lindley in *Quinn v. Leatham* that all combinations to prevent others from working are *per se* illegal, unless there is a justification.

609. To pass to that subject of justification, the defendant in any case is at liberty, is he not, to show just cause or excuse, to prove justification?—Yes.

610. Does just cause and excuse mean legal justification, or moral justification?—Legal justification.

611. If it meant moral justification, that would revolutionise the law altogether, would it not?—Oh, yes, of course.

612. In these actions for conspiracy to injure, in theory the justification which the defendant has got to make

Mr. G. R.
Askwith.

5 May 1904.

Mr. J. R.
Askwith.

5 May 1904.

is legal justification?—Yes, legal justification is required in order to prevent him suffering the consequences.

613. But, in fact, is the justification he is called upon to make moral justification?—I would not put it exactly in that way. I should say that in the case of justification competition in trade has been found to be a justification for a conspiracy of employers, but I know nothing that has ever been found in practice to be a justification in the case of a conspiracy of workmen.

614. Lord Bowen, in the *Mogul* case, says distinctly that malice is not necessary?—Yes.

615. But he says the court has to determine whether the defendant had just cause and excuse?—I think he says "on which side of the line the case falls."

616. And in order to determine that he is to consider whether the defendant acted with a view to his own interests or with a view to injure his rival or master?—Yes.

617. Is not that calling upon the defendant morally to justify himself?—Yes, in one sense I suppose it is.

618. He has got to prove that his action was reasonable?—Or selfish—for himself, as it were.

619. Therefore you would say that the general legal principle that the justification to be shown by the defendant must be legal, is practically set aside by these cases?—In practice.

620. Lord Bowen's dictum that the court has to see on which side of the line the case falls, and with this view to ascertain if the defendant acted with a view to his own interests or out of hostility to the plaintiff, has been adopted, has it not, as the usual formula in all subsequent cases?—Yes, I cited various cases showing the way in which the matter was put, and it was very clearly said only a short time ago by Lord Justice Romer in *Giblan's* case, I think.

621. *Allen v. Flood* would be one instance?—Yes.

622. *Hutley v. Simmons* would be another?—Yes.

623. And *Quinn v. Leatham* another?—Yes.

624. And the *Denaby and Cadeby Main Collieries, Ltd., v. The Yorkshire Miners' Association and others*?—Yes.

625. If there is an action against the defendants for conspiracy in a trade union case, and the judge puts to the jury the question which we have mentioned, namely, "Gentlemen, it is for you to decide whether the defendants in striking were actuated merely by the desire to promote their own interests or whether they were actuated by a hostile intention towards the plaintiff," do you not think it likely that the prejudice of juries will have an important effect on their answer?—Well, I should not like to give a general answer as to what the prejudice of the juries may lead to, but I could answer perhaps in this way. I have examined as many cases as I can, and I know of no instance in which eventually at the end that has come in favour of the workmen.

626. Might you say this, that it would be likely for the jury to take a strong view as to the immediate mischief of the strike to trade?—Yes, I suppose it would.

627. And not so likely that they should feel clearly and strongly that the ultimate object of the case might be beneficial to the workmen?—I have not served on a jury, and I suppose I cannot serve on a jury to try one of those cases, but I should say that the human tendency of the jury would be to refer the whole matter to the question of pecuniary gain one way or the other, and if they were asked, "Do you think it is in the advancement of the workmen's interest? Are they to be excused? Is that a justification?" they would say "No."

628. Yes, but then the question is not whether the strike is or is not to the advantage of the workmen, but whether they think it is or not. In adopting Lord Bowen's question, we have to examine into what is the object and purpose of the workman, not what is the probable result?—No, but in the minds of the jurymen they would be very much bound up together, would they not? However, I cannot give any definite opinion on the subject; I can only give a hypothetical answer on the point.

629. Could you not express an opinion as to the probable effect of putting a question like that to the jury? Would they not be much more likely to feel the immediate mischief of the strike than to enter into the ulterior purposes of the union, which are, that they may improve the position

of the workmen?—If one's general idea as an answer is of any use, I should say they would.

630. You know what Lord Macnaghten says in *Allen v. Flood*: "The truth is, that questions of this sort belong to the province of morals rather than to the province of law. Against spite and malice the best safeguards are to be found in self-interest and public opinion. Much more harm than good would be done by encouraging or permitting inquiries into motives when the immediate act alleged to have caused the loss for which redress is sought is in itself innocent or neutral in character, and one which anybody may do or leave undone without fear of legal consequences. Such an inquisition would, I think, be intolerable, to say nothing of the probability of injustice being done by juries in a class of cases in which there would be ample room for speculation and wide scope for prejudice?"—Yes, and he qualifies it by the next sentence.

631. Yes, he says: "In order to prevent any possible misconstruction of the language I have used, I should like to add that in my opinion the decision of this case can have no bearing on any case which involves the element of oppressive combination. The vice of that form of terrorism commonly known by the name of 'boycotting,' and other forms of oppressive combination, seems to me to depend on considerations which are, I think, in the present case conspicuously absent." But can you suggest what is the peculiar quality which causes a combination to be oppressive?—I cannot suggest any definition; of course it has been said by various judges at various times that it is the two to one policy, that it is the numbers. Lord Brampton, for instance, made remarks about one grain of powder doing no harm, but that when you got a barrel it was a thing that could not be resisted, and in such a case I suppose you would have to take it as a question of fact as to whether the oppression is found to come in.

632. Is not the whole thing left entirely vague as to whether a combination is or is not actionable?—There is no definition I know of—no limitation.

633. If there is no limitation and no rule, I would ask you again: Does it not amount to what Mr. Roscoe said, that there are "plausible reasons for declaring it to be a crime to combine to do almost anything which the judges regard as morally wrong or socially dangerous"?—Well, that is putting it very widely.

634. You yourself cannot suggest any limit or mark or quality which determines that a combination is injurious or oppressive?—No, I do not think I can give any close definition at all. You may search out the various elements.

635. (*Mr. Cohen.*) Let me direct your attention to the 56th paragraph of the Report of 1869 of the Commission over which Sir William Erle presided. It is there stated: "With regard to the legality of trades unions as at present constituted, we are advised, and believe, that prior to the Act 5 Geo. IV., c. 95, any such concerted proceeding on the part of the workmen as a strike, would have been an unlawful combination punishable at common law by fine and imprisonment; and that a union or association of workmen for raising funds to support the men engaged in such a strike would have been an unlawful association." That is what Sir William Erle says?—Those are the words of that Report.

636. And the Act of 1825 which you have read to us clearly contained a statutory declaration to the same effect, that before the Act of 1871 an agreement to strike would have been a criminal conspiracy?—That Act rather implies that that was the view of the draughtsman and the Legislature at the time.

637. And that is confirming what Sir William Erle said?—Of course there have been contradictory ideas on the subject of strikes.

638. The contrary has never been decided?—No.

639. You have got this opinion of Sir William Erle and you have got that statutory declaration of the opinion of the Legislature. If that view is correct then applying the reasoning in *Quinn v. Leatham* which led to the conclusion that the Act of 1871 does not affect civil liability it would follow, would it not, that any person that was damaged by an agreement to strike and a strike could maintain an action?—It rather leads to the supposition that the legality of strikes as allowed by the Act of 1871 did not necessarily exist.

640. If that doctrine is applied, which is enunciated in *Quinn v. Leatham*, that the Act of 1871 does not in the least affect the right to bring an action, then it would follow that if before the Act of 1871 an agreement to strike was illegal, an action would still lie to recover damages for any injuries sustained by reason of the strike?—One could answer that question in this way: If *Quinn v. Leatham* decided so much as that, then if you take the logical conclusion, subject to the Lord Chancellor's remarks about logical conclusions in cases, it would seem that such an argument is correct.

641. Still you agree with me so far, that if you apply the decision in *Quinn v. Leatham* to the proposition that before 1871 an agreement to strike and a strike was illegal, criminally punishable by fine and imprisonment, it would follow that still an action could be maintained by any one who was injured by the strike?—Assuming that a strike was criminal and illegal and taking it that *Quinn v. Leatham* decided that civil liability continued in spite of any alteration of criminal liability then the civil liability would continue with regard to strikes too.

642. And then let me point your attention to one more sequence of the application of the doctrine in *Quinn v. Leatham*. You have stated the grounds upon which the Lord Chancellor, Earl Cairns, urged the advisability of adopting the provisions in the Bill of 1875—I think you read these words: "The principle upon which the Bill was framed was that the offences in relation to trade disputes should be thoroughly known and understood, and that persons should not be subjected to the indirect and deluding action of the old law of conspiracy"—Yes.

643. Now, let me read to you the words of Sir George Jessel in the debate on the Second Reading of the Trade Unions Bill in the House of Commons?—When he was Solicitor-General?

644. I think so, yes: "If we simply abolished the combination laws and left the matter to be dealt with by the Common Law we should transfer that accurate definition of crime, which ought to be the province of legislation to the judges, and we should leave whole classes in utter uncertainty as to what their duties and obligations were. . . . The working classes would wish to see the offences, whatever they might be, accurately and carefully defined." Now if we apply the doctrine which was laid down in *Quinn v. Leatham*, namely, that the Act of 1871, does not affect civil liability, in each case we should have to investigate whether there was a criminal conspiracy. Do you see what I mean? If there was a criminal conspiracy, then but for the Act of 1875 an action would lie?—Yes, I follow.

645. *Quinn v. Leatham* has decided that, but for the fact of criminal responsibility being removed the Act of 1875 does not in the least affect civil liability, so in every action for conspiracy one might have to investigate the rules and doctrines relating to criminal conspiracy, and all the same difficulty would occur?—Yes, on that assumption as to *Quinn v. Leatham*.

646. There was a third point. I read to you that passage I think from the judgment of Chief Baron Palles in *Kearney v. Lloyd* where he said: "If anything is well settled in law, it is that in cases of this description

(i.e., so called actions for conspiracy) in which the old writ of conspiracy did not lie, the gist of the action is not the conspiracy itself, but the *wrongful acts* done in pursuance thereof. The cause of action must exist although the allegation of conspiracy be struck out"—Yes, those are the words of his judgment.

647. (Chairman.) What were the *species facti* in *Kearney v. Lloyd*?—It was a case whether there was justification for applying a boycott to a sustentation fund in a parish.

648. (Mr. Cohen.) In the *Mogul* case Lord Bramwell distinctly said you must prove that there was a conspiracy?—Yes.

649. So did Lord Chief Justice Coleridge in the court below, 21, Q.B.D. 547, citing both English and American cases to that effect, and I daresay you remember the well known passage in the note to *Skinner v. Guntton*, 1 Williams Saunders 23 Q.: "A writ of conspiracy, properly so called, did not lie at Common Law in any case, but where the conspiracy was to indict the plaintiff either of treason or felony and he had been acquitted of the indictment by verdict and such writ could only be brought against two at least. All the cases of conspiracy called in the old books writs of conspiracy are in truth nothing else but actions on the case and not properly writs of conspiracy, though in most, if not all of them, it was usual to insert the words *per conspirationem inter eos habitam* and these actions it was always held might be brought against one person only. Those words inserted in the writ or declaration do not convert the action into a formal action of conspiracy, but it is nevertheless an action upon the case and those words are mere surplusage." That is a well known passage quoted ever so often in judgments?—Yes.

650. Lord Brampton in *Quinn v. Leatham* points out what was pointed out before in the Report of the Royal Commission of 1869, that there are very good reasons why a tort which is committed in pursuance of combination should be criminal when the same tort committed by an individual would not be a criminal offence for reasons which are easy to understand, and which have been repeatedly stated. Do these reasons show that where the conspiracy is not criminal, the act done in pursuance of a conspiracy which is not criminal should be considered a tort, although it would not be a tort apart from conspiracy?—As far as this judgment of Lord Brampton goes?

651. Yes. What you find stated at great length by Lord Brampton is this, "that a tort committed by several persons in combination may be far more offensive and formidable than if it was the act of one individual alone." (Lord Bramwell says the same thing, and you will find it in many of the judgments and in the report of the Royal Commission of 1875.) "It is for this reason that the law of conspiracy can be vindicated" (these are the words of the report) "as just and necessary, so far as it makes in certain cases of combination to commit a tort a criminal offence." I want to ask you this: Do you see any reason why an act which in itself is not a tort should become actionable because done in pursuance of a combination or agreement except in those cases where the conspiracy itself is a criminal offence?—I do not see any reason.

Mr. G. R.
Askwith.
— 1
5 May 1904.

EIGHTH DAY.

Wednesday, 11th May, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

Mr. G. R.
Askwith.
11 May 1904.

652. (*Mr. Cohen.*) I will now ask you one or two questions on the Taff Vale case: all the Lords in the Taff Vale case approved of the judgment of Mr. Justice Farwell—the Lord Chancellor did, and all the Lords?—Yes, I think so.

653. And the point actually decided was, I think, that a trade union may be sued in its registered name, and its funds may be made liable in respect of torts committed by the executive or the agents of the executive?—The head note is: "A trade union registered under the Trade Union Acts, 1871 and 1876, may be sued in its registered name."

654. And that was on the ground that the Legislature must have intended to make the union and its funds liable when it allowed it to hold property, to appoint agents, and to sue for the recovery of property?—Quite so.

655. (*Chairman.*) Surely that head note is singularly inaccurate; the decision goes a great deal further than that, because it also holds that it not only may be sued in its registered name, but that there is a relevant case against it, so that its funds are liable for the acts of its agents?—I think the point upon which the appeal went was simply as to whether it might be sued or not.

656. I think I pointed out formerly that that was the only point the whole argument turned on, but counsel seemed, I will not say to have abandoned, but not to have pressed the question of the merits at all?—That is so.

657. But still, of course, the House of Lords could not, I take it, give judgment that the action lay without necessarily carrying with that judgment the proposition that if the facts as alleged were proved the remedy sought would lie.

658. (*Mr. Cohen.*) If you read the judgments you will see that they decided that a trade union might be sued in its registered name and its funds might be made liable. Lord Lindley went further (so did Lord Macnaghten), and he said that according to the ordinary rules of the common law all the members of the trade union might be liable for torts committed by the executive or the agents in an ordinary action at common law, and that the difficulty of making its members and its funds liable was only a difficulty of procedure which the rules of equity and practice were adequate to overcome. That is what Lord Lindley said, and Lord Macnaghten agreed?—Lord Lindley with regard to procedure says: "If I am right in what I have already said it is not a question of substance, but a mere form."

659. I want to direct your attention to what was suggested by the Prime Minister and how a certain difficulty could be overcome. Suppose a certain portion of the funds of the union to be, according to its rules, set apart and placed in the hands of trustees to be applied only for benefit purposes, such as relief in case of sickness or misfortune, and the like, and not for the purpose of supporting strikes, would not those funds so set apart belong to the union and its members just as much and neither more nor less than funds which might be applied in support of strikes?—Surely it would depend on the form of the trust deed; they might be so taken away and put into the hands of trustees that nothing could be done with them except for special purposes.

660. But those funds would belong to the union and to the members just as much?—Yes, in one sense.

661. (*Sir Godfrey Lushington.*) Supposing that funds were so vested in trustees that the trade union could not get at them or touch them in any way; that they were exclusively in the power of the trustees; but nevertheless that all benefit from those funds appertained to the trade union, do you imagine that in that case those funds would be liable for the torts of the trade union committed during a strike?—I should say not.

662. (*Mr. Cohen.*) My difficulty is this: I cannot see how the separation of the funds can make any difference. I could understand two corporations, as it were, that the workmen might have formed themselves into, a friendly society to which certain funds might belong, and that they might form themselves into another association for the purpose of supporting strikes. Then, of course, the funds would be separated in that way; but it strikes me that without a system of double incorporation or without legislation it would be impossible to separate the funds. Unless there are two distinct entities or associations is it not difficult to see how the funds can be separated in such a way that the whole could not be made liable for torts committed by the executive, in the absence of registration?—If the associations are exactly the same entity and the funds are held by trustees on behalf of that entity, then supposing a breach of trust was committed the entity could attack the trustees and sue them for breach of trust or charge them with fraud or anything like that for using their money. In that sense I should say that the money was the property of the entity.

663. Would not the executive of the trade union have control? Of course one can conceive it possible for the rules to be so formed that the trustees should be a separate body over whom the executive of the trade union would have no control, but that would be merely forming two trade unions really, a trade union for strike purposes and a trade union for friendly benefits in substance. Let me now direct your attention to the view proposed by Lord Lindley and Lord Macnaghten, because a question put by Mr. Sidney Webb the other day seems to me to throw much light upon that question. You came to agree with Mr. Sidney Webb that if that view of Lord Lindley is correct, namely, that you may disregard the doctrine of a legal entity and that an action would lie against each member, it would follow that a member would be liable to the extent of his whole fortune, an action might be brought against him and judgment would go against him, execution would issue and he would be liable to the extent of all he possesses; I think you assented to that view?—That would seem to be a logical deduction from Lord Lindley's view, if it is as you have stated it. He says at the end of his judgment that if a judgment or order in that form, namely, against a trade union in its registered name is for the payment of money, it can, he thinks, only be enforced against the property of the trade union. But he seems there to be speaking of the form.

664. That has made me look up the cases on the subject a little. Take the case of a corporation, the members of the corporation choose the committee which manages the affairs of the corporation, at least the majority do, but still it is perfectly clear, is it not, that according to

English law the members of the corporation will not be individually liable for the torts committed by the executive of the corporation or by the corporation?—No; you might take too, as an ordinary instance a club in London, though of course the rules of the club and the scope of the committee are material points.

665. I will stick to a corporation for the moment if you will allow me. The reason is because those who manage the corporation manage the affairs for the corporation and not for the individual members, they are the agents of the corporation and not the agents of the members?—Yes.

666. It is not true to say that each member appoints the committee; it is appointed by the majority of the members?—Yes, but each member on joining agrees to be bound by the rules.

667. And in that way those who manage the affairs of the corporation manage the affairs for that entity the corporation, and not for each of the members?—In that manner, yes.

668. Let me point you to a passage in the well-known judgment of Lord Blackburn in *The Mersey Docks Trustees v. Gibbs* (1866), L.R., 1 H.L., 93, which confirms that view. The question must be whether the directors are or are not the servants of the members?—He draws attention to the maxim *qui facit per alium facit per se*, and he also draws attention to the difference between casual negligence by servants and the doing of an act within the scope of their employment or the position in which they are placed—collateral negligence I think he calls it.

669. If in the case of a trade union there is a legal entity which is created, would it not be right to hold that the executive are the agents of that entity and not of the individual members?—It might be so—Yes.

670. Because in truth each member does not select or appoint the executive?—That conclusion with regard to trade unions would fall in to a certain extent with the view held at the time when the Act of 1871 was passed, namely, that trade unions should be treated as clubs.

671. Of course what I have just stated does not point in the least to the conclusion that the funds of the trade unions would not be liable but only to the conclusion that an action should not lie against each member. If the trade union is a legal entity it is quite right that the funds of the trade union should be made liable for a tort committed by the executive just as in the case of a corporation.

672. (*Sir Godfrey Lushington.*) Do you think that the reason why the trade union funds are liable is because the executive acts, as Mr. Cohen suggested, for the trade union and not for the members, and the executive is elected not by each member but by the majority, or are trade union funds liable because the trade union members are liable? Which of these two theories is correct do you think?—I should say the second if you adopt the principles mentioned by Lord Lindley and Lord Macnaghten, but the other view has much to be said for it. The question is who in actual fact is the master.

673. In the case of a tort committed by the executive of a corporation, the corporation is exclusively liable. Is the reason of that that the law has substituted corporate liability for the liability of the individual members of the corporation?—It is rather difficult to endorse the phrase that the law has substituted the one thing for the other, but without criticising the phrase I should say that the corporate entity, to use Mr. Justice Farwell's term, once established took the place of the individual members as the party to be sued or to be liable.

674. Now take the case of a limited liability company, if a tort is committed by the directors of that company all funds proper to the company are liable and also individual shareholders are liable, subject to the limitations imposed by the Acts; is not that so?—Yes, those are governed by the clauses of Acts of Parliament limiting the liability. If you take an opposite kind of case, like, for instance, the case of the City of Glasgow Bank, in that case the private property of shareholders was attacked and some were held responsible for large sums, for holding simply one share.

675. And if there was no limited liability then the individual members would be liable to the full extent of their property?—The limited liability is a mere statutory restriction.

676. Would you not say that the present company law, by which the liabilities of a company are met in the first instance by the assets of the company and then by calls on the shareholders up to the amount allowed by law, is a modification of the ancient principle of law which throws the liability in the first instance on individuals and then on any property they hold in common, and not the other way. Would you draw any difference as to where, on principle, the liability first falls?—Surely it is at the option of the person who has won the action.

677. Would you not say this that where persons are jointly interested in a property, whether it is a company or corporation, or anything else, *prima facie* the whole of their individual property, and therefore consequently the whole of their shares in that property, would be liable except so far as relief might be given by special enactment?—If there is nothing to limit their liability at all, if it is unlimited liability, I suppose they would be liable.

678. And the company's property goes simply because it represents the property of all the members of the company.

679. (*Mr. Cohen.*) An action cannot be brought against a shareholder of a company for a tort committed by the company?—In a limited liability company, certainly not.

680. Nor in any incorporated association?—Not against the shareholder individually unless he has done it himself.

681. Is not that the real distinction between an incorporated company and a partnership? In the case of a partnership each partner is an agent for all the partners, and it has been laid down over and over again that that is the distinctive characteristic of a partnership?—Yes, within the scope of the partnership business.

682. And, therefore, each partner is liable to the whole extent of his fortune; but that does not at all apply to the case of an incorporated association; there the shareholders cannot be sued for a debt of the corporation nor for a tort committed by the corporation. Is not that so?—He is liable only for what is within the scope of his own action, and for what he has himself authorised expressly or impliedly.

683. I am submitting to you that he is not liable at all. Take the case of an incorporated company, no action can be brought against a member of that association on account of a tort committed?—By somebody else?

684. Committed by the corporation or a debt contracted by the corporation. You cannot bring an action against the member; you can obtain judgment against the corporation and then afterwards that judgment may be executed on the property of the member, but no action lies?—I do not know whether, if you chose to put down in the action the individual members of the corporation instead of the corporation as a whole, a form of pleading could not be devised allowing that to be done.

685. (*Sir Godfrey Lushington.*) That may be so, but what we want to get at rather is the historical origin of companies and incorporations; did it not start from the fact that where persons are jointly interested then the property of the individuals is responsible for the persons who acted as their agents? That was the primitive state of things and that operated so awkwardly and so impracticably in a very large number of cases, that there were produced corporations and afterwards various other companies in which all the members are sued *en bloc* in the name of the company, and in the first instance all the property of the company or of the corporation is liable, but unless the law had so provided the members would remain personally liable?—As far as I follow your argument it is that by some historical line of that kind you got to the position you suggest.

686. Quite so. You mentioned the word "clubs;" do you know what the liability of a club is for the acts of the committee of the club?—That is a very wide question.

687. You do know I have no doubt that if the committee contract a debt with their butcher or baker the club is not responsible, and do you know the reason given for that? The reason given is that they are acting beyond the scope of their authority, that they are appointed for a limited purpose and they are provided with funds for

Mr. G. H. Askwith.

11 May 1904.

Mr. G. R. Askwith. carrying on the business of the club ; therefore, if they exceed that and get into difficulty with tradesmen the club is not answerable ?—That has been laid down as the law in several cases, some quite recent.

688. Now take the case of a tort ; supposing that the committee of a club commit a tort against a neighbour, the neighbour, of course, knows nothing of the arrangements between the club and the members. Who is liable for that tort ? Cannot the person injured sue the committee, and all persons for whom the committee act as agents, provided only that the committee have not acted beyond the scope of their authority ?—I should put it that the important point is the difference between your coachman doing something when he is on the box of your carriage, and breaking windows or smashing somebody's head if he chooses to go into the bar of a public-house on his own account.

689. (Mr. Cohen.) I will just ask you whether you agree with this passage which is taken from Lord Lindley's book on Company Law. "The pursuit of a common object by persons in concert does not give each an authority to act as the agent of the others in whatever he thinks tends to the attainment of that object. Therefore, no one is liable for the act of another unless he has in some definite manner constituted him his agent, or ratified what he has done"; do you agree with that passage ?—Yes, I think so. The difficulty may be what is "some definite manner."

690. You cited (*Vide Q. 335*) a passage from the judgment of Mr. Justice Willes in *Bayley v. The Manchester Sheffield and Lincolnshire Railway Company* which stated, "A person who puts another in his place to do a class of acts in his absence, necessarily leaves him to determine, according to the circumstances that arise, when an act of that class is to be done, and trusts him for the manner in which it is done ; and, consequently, he is held answerable for the wrong of the person so entrusted either in the manner of doing such an act, or in doing such an act under circumstances in which it ought not to have been done." That is to say if a person has authority from his master to do a certain class of acts, then, if he is negligent in doing any of those acts, the master would be liable. That is all that that case decides is it not ?—It decides that.

691. And it has often been pointed out (it was pointed out in that judgment of Lord Blackburn's in the *Mersey Docks Trustees v. Gibbs*) that that does not apply to the case of a contractor at all ; it only applies in the case of a person who can be controlled by the other person ?—It does not apply to the case of an independent contractor.

692. Although he is called upon to do acts for the person with whom he contracts he is not the servant at all. It is always a question is it not whether the individual is acting within the scope of his authority express or implied ?—Yes.

693. That is the real test, and I want now to direct your attention to one case because something was said about *ultra vires*—the case of *Poulton v. The London and South Western Railway Company*, 2 Law Reports, Queen's Bench, page 540. That is the case where it was "held that a railway company has power to apprehend a person travelling on the railway without having paid his own fare, but has power only to detain the goods for non-payment of the carriage ; consequently, as the defendants themselves would have had no power to detain the plaintiff on the assumption that he had wrongfully taken the horse by the train without paying, there could be no authority from them to the station master to detain the plaintiff on this assumption, and they were, therefore, not liable for this act of the station master." That was a judgment delivered by Mr. Justice Blackburn and there he says at the end, "In the present case an act was done by the station master completely out of the scope of his authority, which there can be no possible ground for supposing the railway company authorised him to do, and a thing which could never be right on the part of the company to do. Having no power themselves, they cannot give the station master any power, to do the act." Therefore, it did not belong to the class of acts which the station master was authorised to do ?—No.

694. Therefore the wrongful imprisonment is an act for which the plaintiff, if he has a remedy at all, has it against the stationmaster personally, but not against the

railway company. And then you will find if you look at Giblyn's case that all the judges think it important to investigate the question whether or not the act was *ultra vires* of the union ?—Yes.

695. Just one more question on this point : the rules of the union might be so framed might they not as to give only to the executive the power of interfering in strikes ?—Yes.

696. So that they could not delegate that power to any branch or to any delegate ; they might be so framed ?—I think so.

697. If they were so framed (I do not know whether trade unions will approve of any such scheme) then if a delegate without the authority of the executive were to commit a tort in managing or conducting a strike the trade union would not be liable ?—I think it would be very difficult to make a set of practical rules which would work.

698. That is for the trade unions to consider, but theoretically it is not impossible ?—Theoretically, I suppose not.

699. The question really would be whether the trade unions would be willing to limit the power of interfering in strikes to the executive of the trade union ; if they did that, then, unless the executive of the trade union sanctioned what the delegate did, the trade union, I put it to you, would not be liable ?—In theory, I suppose not, but I do not think it could be worked.

700. You have given us statistics showing that a comparatively small amount was expended by trade unions on strikes. Can you tell me in coming to that conclusion are the sums included which are paid to workmen out of work on account of strikes ?—No, out-of-work benefit is quite distinct from dispute benefit in these statistics.

701. (Sir Godfrey Lushington.) You remember the passage from Lord Lindley's book which Mr. Cohen quoted to you, namely, that where two or more persons are working together for a common object, A cannot be responsible for B, except he has given him express instructions to do what he did ?—Yes, the passage has just been read.

702. What is your inference from that as applied to trade unions ? Do you infer from that that the trade union members are not liable for the acts of the executive or that they are liable ? How does that passage apply I mean ?—I should like to have the exact words before me.

703. "The pursuit of a common object by persons in concert does not give each an authority to act as the agent of the others in whatever he thinks tends to the attainment of that object. Therefore no one is liable for the act of another unless he has in some definite manner constituted him his agent or ratified what he has done." As to the relation of the executive to a trades union, the trades union choose the executive do they not ?—Yes.

704. Or they pass rules settling how the executive is to be appointed ?—Yes, it depends on the rules—the constitution of the union.

705. Therefore would you not say that the executive are agents for the trade unions ?—They are not agents for every purpose.

706. How would you limit that ?—It is limited either according to the rules or according to the natural business of the executive member of the trades union. I suppose you might in some cases get the extent of his agency really as a question of custom or habit.

707. Is it part of the constitution of the union that the members agree in the case of a strike ordered by the executive that they will conform to the orders of the executive ?—That might be within the rules, within the intention of the union.

708. Would you say that the executive were the agents of the union so far as ordering a strike is concerned ?—The executive in ordering a strike might be the agents of the union, if the union intended the strike to take place and adopted it after it was begun.

709. The Executive would not be less the agents of the union, because the union has agreed to comply with the decision of the executive ?—No, I do not think so.

See Question 701.

See Question 710.

See Question 689.

See Question
603.

710. Mr. Cohen referred you, I think, to the case of the South Western Railway; there it was held that the station-master could not be held the agent of the South Western Railway Company, because the Railway Company had no business to act as was done in that case?—They had no business to arrest a man under those circumstances.

711. Do you know a case called *Barwick v. London and Joint Stock Bank*?—Yes.

712. In *Giblan's* case did not the judge in the Court below consider that the union should be exempt from liability, because the executive had acted in an unlawful way, and it could be no part of the business of the trade union to act in an unlawful way?—*Giblan's* case was that a man was not excused for bringing the forces of the trade union to bear in order to make another man pay a debt.

713. (*Mr. Sidney Webb.*) On this point as on the other points you have been telling us, so far as you know, what the law is. You do not wish us to infer from that any opinion as to what the law ought to be?—No, I have not been expressing any opinion as to what it ought to be.

714. On this question of the responsibility of a trade union for the acts of its agents, you find it extremely difficult to put into any clear language how far that liability extends, do you not?—I do not think you could define the exact acts within which the liability was confined; it would be a question of fact in each case really as to whether it came within the rules we have been talking of with reference to the benefit of the master and the course of the service.

715. And it is in practice extremely difficult for a trade union to have any sort of assurance where its liability will begin or end for the acts of its agents?—Yes.

716. Does not that arise to some extent from the fact, that the scope of the authority of an official of a trade union has not been in any way defined or discussed?—Yes, partly because the rules laying down such authority have been formulated during a period of time when there was no idea that the funds of a trade union were liable for any acts that were done by the executive.

717. But it is not only the authority as formulated in the rules or writings of the trade union that would decide the extent of the authority?—No.

718. The trade union cannot, as far as we know from the law, protect itself against responsibility for a wrongful act of its agents by definitely restricting under the rules, or in any other way, what it intends to be his authority?—I do not think you could cover by rules alone what his authority was to be.

719. And that is a special difficulty is it not in the case of an office which has no natural limits to its work. I mean if you take the responsibility of a man for his coachman the Courts will form an opinion as to what is the proper function of a coachman in a way which corresponds to the interpretation of the owner, but it would be difficult would it not, to predict what view the Courts would hold of the natural course of the service, for instance, of a trade union official?—I think it would be rather difficult. I think it would be almost as difficult as if the Courts were to lay down what was the exact province of what each Cabinet Minister was to do.

720. For instance, the Courts have held that it cannot be within the authority of a stationmaster to arrest a man under circumstances in which the company would not have had authority to arrest him. Suppose a trade union official were to arrest a man, would you have any confidence in feeling that that would not be held to be done in the course of his service for the benefit of his employers to the advantage of a strike?—In that particular instance I cannot agree that I should feel much doubt about the answer.

721. Supposing, for instance, a trade union official were to detain a "blackleg" compulsorily, do you not suppose that the "blackleg" would have a very good chance of recovering damages against the trade union for the wrongful act of its agent?—It depends upon the amount of compulsion and imprisonment, I think.

722. Take the authority another way. Supposing that the rules of a trade union placed the direction of a strike entirely in the hands of the executive, and an official of the trade union tells men at work that the executive directs

them to take the necessary steps to terminate their contracts, in all probability the trade union would not be held liable for that as there is no wrongful act?—I am endeavouring to follow.

723. If it tells them to take the necessary steps to terminate their contracts—I mean so as to exclude the breach of contract?—If it simply suggests to them to take the necessary steps?

724. My point is that, suppose the trade union official instead of merely requesting the men to take the necessary steps to terminate their contracts, goes beyond that direction and tells the men to cease work at once in breach of their contracts?—Then he would be liable.

725. And not only he would be liable but also the trade union?—I think so.

726. Because it would be held, apparently, that for him to tell the men to break their contracts was in the course of his service, although he might have been expressly directed not to do it?—He has induced the violation of a legal right which the other parties are entitled to have.

727. That is as regards his liability, but what I am anxious to get from you is whether the trade union can in any way protect itself from an excess of authority taken by its agent?—Put in that broad way I should say that they can. With regard to this particular question of the contracts you are putting to me, the man does it only for the purpose of the trade union, and it is one of the purposes of the trade union that that thing should be done.

728. That the contract should be broken?—For the purpose of that strike, as far as I understood your question.

729. I am putting the case of a trade union which has no desire to infringe the law or to commit any wrongful acts in any way and which makes all the provision it can in its rules, or otherwise, against committing wrongful acts. It must necessarily have certain agents for the proper pursuit of its rightful business, and if one of those agents chooses, in defiance of all instructions, to urge men to break their contracts, there seems to be no way in which that trade union can save itself from being held liable for that wrongful act. Do you think it clear that they could save themselves?—I think rules could be devised for a case of that kind.

730. Do you feel confident that it would be held to be outside the natural business of a trade union agent to take means even to the extent of inducing men to break their contracts in order to promote a strike? Do you feel confident that the judges would hold that that was outside the natural business of a trade union agent?—If there were no rules relating to his conduct I think he would be held liable.

731. And the trade union?—And the trade union would be held liable, but I can conceive rules being drafted which would meet that particular case and prevent the trade union being liable.

732. The liability of the principal for the agent depends partly upon whether the wrongful act of the agent falls within that class of acts which he has authority to do?—Yes.

733. Have you any clear vision of what the class of acts of a trade union official is?—No.

734. Do you think any of the judges have a clear vision of what the class of acts of a trade union official is?—I think it would be very difficult for any man to say, as things are at present, that he could lay down accurately the class of acts which a trade union official can do.

735. Therefore does it not follow that it would be extremely difficult for you to advise a trade union that any of the wrongful acts that have been done by trade unions in the last ten years would or would not be held to be within that class of acts that a trade union official is authorised to do?—I think it would require very grave consideration as to what acts trade union officials had done and would do in the course of a strike. There are certain acts which you could say at once were or were not within the class of acts that a trade union official would do, but a great many other acts would be very much on the line I think.

736. (*Sir Godfrey Lushington.*) It would be rather difficult, would it not, for the members of a trade union to give a free hand to the executive in the conduct of

Mr. G. R.
Askwith.

11 May 1904.

Mr. G. R.
Askwith

11 May 1904.

strikes and yet escape from liability for the action of the executive in executing those powers?—Certainly.

737. (Mr. Sidney Webb.) And that would be the same, would it not, if they limited that free hand by any sort of rule declaring that they wished the executive relation within the limits of the law?—Yes, it occurred the other day, in the case of *Howden v. The Yorkshire Miners' Association*. There the union began paying strike pay and the Courts held that they need not do it because the contract had been broken by the workmen contrary to the express instructions of the union.

738. Yes, but it does not follow from that, does it, that the union might not have been held liable for the wrongful act of breaking the contract or inducing men to break the contract—in fact the union was held liable in a case connected with that very case, partly because it was held that they had by their agents induced the men to break their contract?—Yes.

739. In short, you would say that it is extremely difficult to state clearly to the comprehension of the ordinary citizen what the responsibility of a trade union is for the acts of its officials, would you not?—I do not think it has ever been laid down *in extenso* what the exact duties of the trade union official are with respect to a strike.

740. Does not that lack of definition of the duties of a trade union official increase very materially the necessary uncertainty of the law of agency?—Of course it does from that point of view.

741. And it creates therefore an aggravation of the difficulty in the case of the trade union official. I mean that a man may be under some uncertainty as to what acts of his coachman he will be held liable for?—You might have a very large number of officials in the country of different characters, the duties of whom are not specifically laid down, but a point of importance with regard to trade unions is that the officials on occasion are expected to assume very active executive functions.

742. Is not that last remark of yours rather an assumption of what the Courts have expected of the official? Is that quite true if it is sought in the documents of the trade unions themselves?—No, but I think if you look in the documents of history you will find that the executives of trade unions have taken a considerable amount of active interest in strikes.

743. Now you are talking about the executive. I thought just now you were talking about the assumed free action of officials; is there not a distinction?—Are you trying for this purpose to make a distinction between officials and executive?

744. Yes, it might be accepted as reasonable that the trade union should be liable in its corporate capacity in respect of the wrongful acts of its executive without its at all being equally reasonable that they should be so liable for the wrongful acts of the officials or that executive, acting contrary perhaps to express directions?—Yes.

745. My point is—do you not think that there has been, and is still, an assumption that a trade union official may, under certain circumstances, be regarded almost as a general agent? Is not that how the law has rather tended to regard him?—Speaking generally, yes; it is rather a wide question as it is put.

746. And that therefore the liability of a trade union for the wrongful acts of its officer has assumed probably a wider form than in the case of almost any other agent holding a defined office?—It is rather difficult to say; following on your argument I think one might hazard the conjecture that that appears to be rather the tendency.

747. Then on the point of the liability of the trade union funds, do you see any way by which the funds of the trade union could be protected from liability for the wrongful acts of officers of the union merely by being vested in trustees acting according to the rules of the union?—If you limit it by "acting according to the rules of the union," I should say it would be very difficult.

748. But you do not at the moment see any set of rules of a union which would protect the funds from liability?—I think the protection would have to come in the trust deed itself.

749. But that would mean, would it not, that the funds would then be entirely outside the control of the union, and would therefore no longer belong to the union?—That would be the difficulty.

750. But so long as the funds belonged to the union, and were ultimately controllable by the union, no vesting of them in trustees would be of any avail, would it?—Under those particular circumstances I think they could be reached; the trustees could be added as defendants in the suit.

751. Does not that come in effect to saying that it is only by making two legal entities that you can escape liability for the funds?—That is the crux of the whole matter.

752. Take this further point, that if the funds are subscribed for benefit purposes and set aside for those purposes in the best way that the trade unions could be advised to set them aside for safety, even then if the decision as to which persons from time to time should be the beneficiaries under the rules or the trust-deed were left to the trade union, it would still be possible to reach those funds for the wrongful acts of the trade union?—I think that is a very difficult question to answer, whether the mere fact of these men being beneficiaries would render the funds liable for, say, an action against the executive for a tort, or what would be exact elements tending to establish liability.

753. But to extend the view from the old member to the member out of work, which, after all, is legally the same case, if the trade union retained the power of saying which members had satisfied the conditions of the rules to entitle them to benefit, would not the trade union be held to be still the owner of those funds for the purposes of liability; at any rate, do you feel sure that it would not be so held?—No. I do not at all; for instance, supposing the funds were being employed to pay men who were on strike and, therefore, out of work, in the very same strike in which possibly an official or the executive might be held liable for a tort, I think that would be an additional fact that would go to show that the funds were actually the property of the union, and if the union was found liable, would go to show that the funds could be affected by the judgment that was found against the union.

754. Let us take it up from another point of view. Assuming that the only remedy of the trade union for the present state of legal uncertainty and insecurity were to make this complete separation of its funds that we have been discussing, that would mean, would it not, that the trade union proper with its business of raising wages and maintaining the standard of life and consequent strikes, would have nothing to do with the benefit funds. That being so, we should have got back to the state of things which was so strongly deprecated some time ago as the formation of strike unions with no other objects. Would not that be the result?—Yes, it would tend to have that result; the great objection in 1894, I think, to that separation was the division into all kinds of different societies instead of having one society dealing with all the branches.

755. It has been considered very generally, has it not, that the great amalgamated societies like the engineers' and the carpenters', with their very large benefit funds, offered a greater guarantee for peace and good order than merely fighting trade unions?—Speaking generally, I should agree with that; of course, the Engineers' dispute rather shook confidence at the time in that view.

756. But the mere fact that a great amalgamated union has a dispute is hardly a reason for withdrawing the opinion which has been generally held as to that union of funds?—I quite agree with that; I only made the remark that at the time in that particular case the view was shaken a little.

757. (Mr. Cohen.) One main reason was, I think, that in order that the trade union should be useful it must have complete control over its members?—Yes.

758. (Sir Godfrey Lushington.) The law of agency which affects trades unions is the common law of agency?—Yes.

759. In order that anybody should be responsible for the act of his agent the man must be his agent?—Yes.

760. That depends on the circumstances, does it not?—Yes.

761. And the agent must be acting within the scope of his authority?—Yes.

762. That also depends on the circumstances?—Yes, it is a question of fact, as I said.

763. And that is the law which is applied to trade unions and to everybody else?—Yes.

764. There is often a great difficulty, is there not, in ordinary cases in ascertaining whether a man is an agent or whether he is acting within the scope of his authority?—Yes.

765. The Courts in trade union cases proceed in the same way, do they not, that is to say they look into the particular circumstances of the case to ascertain from them whether the executive or delegate were agents of the union, and acting within the scope of their authority?—Yes, I think that is so.

766. Do you think there is any case in which the Courts have attributed to the executive or the delegate greater powers than they actually possessed from the trade union?—I do not know of any case.

767. Do you think there is any ground upon which unions might complain as to the operation of the law in that respect?—The trade unionists know that it is the ordinary law of agency, and that it is governed by the state of the facts in each case when it comes into the courts.

768. But I understood Mr. Webb suggested that the courts had proceeded on the assumption that the executive or delegate possessed unlimited powers?—I think Mr. Webb's questions were rather directed to the point that there was no definition of the exact duties or rights of trade union officials, and that, therefore, it was extremely difficult to deal with the circumstances of each case with regard to such officials.

769. But does the law in any case settle *a priori* conditions of employment with any agent? It all depends on the circumstances?—I should think that a great many other classes of officials might be named in this country who have equally undefined duties, but trade union officials I should also say are a class with undefined duties, and that was all the point Mr. Webb was bringing out.

770. With reference to the London and South-Western case which was mentioned, and also *Barwick v. The London Joint Stock Bank*, do you recollect the case of *Giblan v. The National Amalgamated Labourers' Union*?—Yes.

771. It was a case, if you remember, in which the treasurer had committed a fraud, and he had been turned out, and he was struck against at the instance of the executive; the suit was brought in order to make the trade union responsible. Do you remember what Mr. Justice Walton, who considered that the trade union was not responsible, said in the Court below? "Had the general secretary any authority to call out men merely for the vindictive purpose of punishing a member who had defrauded the society, and refused or failed to make good his defalcation? The very essence, in my judgment, of the case against the union is that its members, acting in concert through their general secretary, endeavoured to set up and enforce a kind of private penal jurisdiction for the purpose of punishing what they deemed to be an offence." Was not the argument of Mr. Justice Walton here that the setting up of a private penal jurisdiction could be no part of the ordinary functions of a trade union, and that, therefore, the trade union should not be responsible for the secretary having exercised such jurisdiction?—That seems to be the tendency of what you have read.

772. That plea was not accepted by the court above, was it?—The case went to the Court of Appeal, and the Court of Appeal confirmed the liability of Williams for his part in the conspiracy which had been found in the court below, and also pronounced Toomey and the union liable, which Mr. Justice Walton had not done.

773. The court relied on the case of *Barwick v. The London Joint Stock Bank*. Of course it might have been said in the case of the bank that it could never be the intention of the bank to commit fraud or to make fraudulent representations; they were held responsible for the fraudulent representations of their manager, but none the less and on the same principle the Court of Appeal held that the trade union were responsible for the action of their officials, in having set up a court of private penal jurisdiction.

774. (*Mr. Cohen.*) *Lumley v. Gye* was decided on demurrer, was it not?—Yes.

775. May I just remind you that the declaration stated, "That the plaintiff was lessee and manager of the Queen's Theatre for performing operas for gain to him, and that he had contracted and agreed with Johanna Wagner to perform in the theatre for a certain time with a condition, amongst others, that she should not sing nor use her talents elsewhere during the term without plaintiff's consent in writing; yet the defendant, knowing the premises, and maliciously intending to injure the plaintiff as lessee and manager of the theatre, whilst the agreement with Wagner was in force, and before the expiration of the term, enticed and procured Johanna Wagner to refuse to perform; by means of which enticement and procurement of the defendant, Johanna Wagner wrongfully refused to perform, and did not perform during the term," by means of which the plaintiff was damaged. That was demurred to, so that *Lumley v. Gye* decided, and decided only, that an action can be maintained against a defendant for maliciously procuring a breach of contract, and thereby intentionally causing damage to the plaintiff; that is what was decided?—I agree that that was decided.

776. You will find that the judges gave no definition of what was meant by "procuring" or what was meant by "maliciously." I daresay you will remember a case decided by Chief Justice Willes; it was held in the year 1745, that "procuring is certainly 'persuading with effect,'" and the Chief Justice said, "I need not cite any authorities for this, because everyone who understands the English language knows that this is the common acceptance of the word;" so that to procure really a person to do an act is to cause him to do an act, and that is a question of fact, I suppose, in all cases?—Yes, I should say it would be.

777. For instance, in *Allen v. Flood*, Lord Macnaghten thought that the defendant had not procured the employers to dismiss their servants. The meaning of the word "procuring" does not seem material to the case of trade unions where the workmen themselves break their contracts, because then each and all would be liable?—They have done it on their own initiative without being procured.

778. And each one would be liable in an action?—Yes.

779. Therefore it only applies to cases where a trade union induces workmen outside the trade union to break their contracts, and there the question of *Lumley v. Gye* might arise, but in considering the control which a trade union really has over workmen, do you not think there is little doubt that a trade union which advised and urged workmen to break their contracts would be held to have procured them to break their contracts?—The difference between mere advice and inducement is sometimes very fine, I think.

780. Considering the powerful moral control which a trade union has over workmen, even outside the union, would it not be generally held that for a trade union to urge those workmen to break their contracts was merely to procure them to do so?—It would be a question for the jury in each case and, of course, the facts as against the trade union would be built up with an endeavour to show that the trade union had got and exercised such a power as you have mentioned.

781. It is late now to dispute the correctness of the decision in *Lumley v. Gye*. I mean it has been approved of by so many judges, that it must be taken to be law; but one word as to the meaning of "maliciously." That was considered, you know, in the case of the Glamorgan Coal Company and there Lord Justice Romer said: "When a person has knowingly procured another to break his contract, it may be difficult under the circumstances to say whether or not there was 'sufficient justification or just cause' for his act." They held in that case that there was no justification for the act, and Lord Justice Williams in his dissentient judgment went very much further. He said that malice when used in connection with procuring a breach of contract has exactly the same meaning and may be presumed and rebutted exactly in the same manner as malice in the law relating to slander or libel; but that was a dissentient judgment?—Yes.

782. Again, in the case of a trade union which induces or procures workmen to break their contracts, is there much doubt but that the Court would hold they were not justified in so doing by any *bond fide* belief that it was furthering the interests of the workmen. Do you think

Mr. G. R. Asquith.

11 May 1904.

Mr. G. R. Askwith.

the Courts would ever hold that to be a valid excuse?—There has been no instance in which it has been so held.

11 May 1904.

783. So that in applying *Lumley v. Gye* to trade unions what is applied is the law applicable to all persons, whether they belong to trade unions or not?—Quite so.

784. And if there is nothing inequitable or inexpedient in applying that law to persons generally, do you see anything wrong or unjust in applying the same law to trade unions?—No, not if it is generally inequitable and inexpedient.

785. (Mr. Sidney Webb.) Although the application for the doctrine of *Lumley v. Gye* to the trade unions is merely a case of the application of the ordinary law, yet is there not reason to believe that the trade union would have

great difficulty in claiming justification, even when it has acted in the *bona fide* belief that it was in the interests of the members themselves?—Yes, I have already given that answer.

786. (Mr. Cohen.) Do you know a single case in which a defendant was held justified in procuring or inducing persons to break their contracts, actions against persons who were not members of a trade union any excuse or justification has been found for inducing those persons to break their contracts?—No, I do not know of any.

787. (Sir Godfrey Lushington.) In *Lumley v. Gye*, Gye I suppose, may be credited with the belief that it was to his interest to carry off the services of the *prima donna*—he thought it was to his interest?—Yes, I can believe that Gye had such an idea in his mind.

NINTH DAY.

Wednesday, 18th May, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

SIR GODFREY LUSHINGTON, G.C.M.G., K.C.B.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.G.

HARTLEY B. N. MOTHERSOLL, Esq., M.A., LL.M. (*Secretary*).

Mr. G. R. ASKWITH recalled and further examined.

Mr. G. R. Askwith.

18 May 1904.

788. (Mr. Cohen.) There is one question I wish to put to you about the Taff Vale case. Assuming that in that case it was decided that a trade union is a legal entity entitled to sue and to be sued, is it not rather difficult to see how a trade union can be liable for conspiracy unless it conspires with persons who are not officials of the trade union? Take the case of a corporation. Could a corporation be liable for conspiracy between the directors and the agents of the corporation? You have never heard of that, have you?—No. As I understand it, you are putting it that a body cannot conspire with itself?

789. Yes, cannot conspire with itself. And, therefore, it seems to me that if the Taff Vale case decided what the Lord Chancellor and Mr. Justice Farwell decided, viz., that a trade union is a legal entity entitled to sue and to be sued, there is then considerable difficulty in holding a trade union liable for conspiracy on account of what was done by the trade union with its own officials. You see what I mean?—Yes, if that was the meaning of the Taff Vale case.

790. I wish to direct your attention to the Mogul case. There are passages, are there not, in Lord Justice Bowen's judgment in that case which have given rise to many difficulties and conflicting dicta. You know that judgment very well?—The judgment has been praised over and over again by many judges; but some of the dicta in it have been criticised in various cases.

791. I wish to direct your attention to passages at page 613, 23 Q.B.D., 1889. The first passage is this: "All personal wrong means the infringement of some personal right. 'It is essential to an action in tort,' say the Privy Council in *Rogers v. Rajendro Dutt*, 'that the act complained of should, under the circumstances be legally wrongful as regards the party complaining; that is, it must prejudicially affect him in some legal right; merely that it will, however directly, do a man harm in his interests, is not enough.'" Now that passage is taken from the judgment of the Privy Council in the case there cited, and is adopted by Lord Justice Bowen?—Yes.

792. And the proposition adopted in that passage is also distinctly laid down I think by every noble and learned lord in *Allen v. Flood*. In *Allen v. Flood* the defendants did undoubtedly do, and intentionally do, harm to the plaintiffs, and there was no justification pleaded or that could have been pleaded. I

think if you look at the judgment in *Allen v. Flood*, you will find that nobody doubted that proposition which was laid down in *Rogers v. Rajendro Dutt*?—I think one might cite with advantage, upon that point, what Mr. Justice Wright in *Allen v. Flood* said upon that case of *Rogers v. Rajendro Dutt*. At page 64 of Appeal Cases, 1898, he says: "Then if there was not in the present case any cause of action in the absence of a malicious motive, can the addition of a malicious motive create an injury? Can that which in the absence of malicious motive it is lawful to do wilfully and with the knowledge that it will cause damage, as in *Rogers v. Rajendro Dutt*, become lawful and constitute a cause of action when done from an indirect or malicious motive? That question is one of legal consequence and difficulty, and it was expressly left open in *Rogers v. Rajendro Dutt*, though I think not so much as a general question as in relation to a possible case which might depend upon considerations of oppression or misuse of power by a public officer." That question, which Mr. Justice Wright says was expressly left open, was, so far as I understand, decided in *Allen v. Flood*.

793. I do not think any of the Lords in *Allen v. Flood* doubted this proposition: that apart from conspiracy (I am not considering conspiracy now) a person has no right to maintain an action for molestation in his trade or calling unless illegal means be used. That is what Lord Watson laid down; and Lord Macnaghten said he entirely agreed with that view. I am speaking of an individual now, not of conspiracy?—Yes.

794. And if you look at the judgment of the Lord Chancellor in the Mogul case, 1892, Appeal Cases, page 38, you will see that that is the view which the Lord Chancellor applied to that case; he there says, "I think this question is the first to be determined: What injury, if any, has been done? What legal right has been interfered with? Because if no legal right has been interfered with, and no legal injury inflicted, it is vain to say that the thing might have been done by an individual but cannot be done by a combination of persons?"—But the next sentence continues it in rather a different form.

795. True, but it does not touch my point to which I am now directing your attention, that there must be a legal right interfered with. I am not speaking of conspiracy, remember, now; I am laying that aside. Lord Justice Bowen's passage has no reference to conspiracy;

Lord Justice Bowen refers to conspiracy in a later part of his judgment. What I wish to point out to you is, that all the Lords seem to me to be of opinion that apart from conspiracy a person has no right to maintain an action for molestation in trade or business unless illegal or tortious means be used?—Yes, I think that is the general effect of their judgment.

796. Now I come to the second passage of Lord Justice Bowen's judgment, and the second passage is this; it is a few lines further down on page 613. "Now intentionally to do that which is calculated in the ordinary course of events to damage, and which does in fact damage another in that other person's property or trade, is actionable if done without just cause or excuse." That is a proposition which has given rise to so much difficulty. In the first place let me ask you this. It would seem that that principle was entirely unknown to the very able judges who decided *Lumley v. Gye*; because in *Lumley v. Gye*, which you will remember was decided on demurrer, it was admitted that the defendant did, intending to injure and do harm to the plaintiff, procure Johanna Wagner to break her contract with Lumley?—Yes.

797. So that if there were any such principle as is here indicated, that case might have been decided simply upon the ground that Mr. Gye intended to do harm to Mr. Lumley without any legal justification?—That also appears in Mr. Justice Wright's judgment in *Allen v. Flood*, A. C. 1, 1898, p. 67; he says, "If it" (that is that doctrine) "had been known to them, some mention of it must have been made, and it would have rendered unnecessary most of the arguments and elaborate reasoning on other points. It seems difficult to suppose that such a doctrine is part of the Common Law, and yet was not known to either Crompton J., Erle J., Wightman J., or Coleridge J."

798. I wish to point out to you a fact of great importance which, I think, has not been sufficiently noticed, and that is this: that Lord Justice Bowen's judgment in the Mogul case was delivered several years before the case of *Pickles v. The Bradford Corporation*—I believe five years, or something of that kind?—*Pickles v. The Bradford Corporation* was in 1895.

799. That is several years after the year in which Lord Justice Bowen delivered his judgment, and many years, of course, before the decision of *Allen v. Flood*, which was in 1898, I think?—Yes, 1898.

800. Now you will remember what Lord Lindley said about those two cases in *Quinn v. Leatham*. Those two cases, said Lord Lindley, at page 533 of the Report of *Quinn v. Leatham*, Appeal Cases, 1901, established "a far reaching and extremely important proposition of law," which had been much doubted, . . . "that an act otherwise lawful, although harmful, does not become actionable by being done maliciously in the sense of proceeding from a bad motive and with intent to annoy or harm another." That is the proposition, "a far reaching proposition," to use the expression of Lord Lindley, which those two cases established?—Is it Lord Lindley who says that?

801. Yes. It begins at page 533: "My Lords, this decision" (that is *Allen v. Flood*), "as I understand it, establishes two propositions: One a far reaching and extremely important proposition of law; and the other a comparatively unimportant proposition of mixed law and fact, useful as a guide, but of a very different character from the first. The first and important proposition" (that is the far reaching and important one) "is that an act otherwise lawful, although harmful, does not become actionable by being done maliciously in the sense of proceeding from a bad motive and with intent to annoy or harm another. This is a legal doctrine, not new or laid down for the first time in *Allen v. Flood*; it had been gaining ground for some time, but it was never before so fully and authoritatively expounded as in that case"?—Yes, there he puts it on *Allen v. Flood*. I thought you said he mentioned the two cases, *Allen v. Flood* and *Pickles v. The Corporation of Bradford*.

802. You are quite right; but he refers to that because he said it was not new or laid down for the first time?—Yes, I think he does. If you look at page 524, almost the same words are given by Lord Brampton. He says, "This latter proposition, that the exercise of an absolutely legal right cannot be treated as wrongful and actionable merely because a malicious intention prompted such

exercise, was established as clear law by this House in *Bradford Corporation v. Pickles*, and it is now too late to dispute it even if one were disposed to do so, which I am not."

803. I daresay you remember that Lord Lindley was referring to the fact that that point was expressly left open by the House of Lords in *Chasemore v. Richards*, and this is also referred to, you will find, by Lord Justice Bowen in the Mogul case at page 613, the same page I cited before. You will find Lord Justice Bowen says almost at the top of page 613: "The English law, which in its earlier stages began with but an imperfect line of demarcation between torts and breaches of contract, presents us with no scientific analysis of the degree to which the intent to harm, or, in the language of the civil law, the *animus vicini nocendi*, may enter into or affect the conception of a personal wrong," and he cites *Chasemore v. Richards*. And that it was doubtful for a long time and was doubtful at the time the Mogul case was decided in the Court of Appeal, appears also from the following passage, which I will read to you from Bell's Commentaries—I am reading from the last edition, at page 525: "It seems a truism to say that reparation can be recovered only for the commission of a wrongful, i.e., of an illegal act. Yet it is only lately decided after some difference of opinion" (and the edition I am reading from is the edition of 1899), "that an action in itself lawful does not become unlawful, so as to make the doer liable to an action for damages, because it is done with an evil or malicious motive. Thus a man may exercise his right of diverting subterranean water" (that is *Pickles v. The Bradford Corporation*, evidently) "within his own ground so as to deprive his neighbour of it although he does so from malicious motives and not in the pursuit of his own interests alone. And one may procure the dismissal of a servant or workman if he employs no unlawful means, and if the dismissal does not involve the breach of an existing contract"; and for that proposition *Allen v. Flood* is cited?—*Pickles v. The Bradford Corporation* was decided in 1895, and therefore would be more or less a recent case in 1899.

804. That passage in Lord Justice Bowen's judgment you will observe has no reference to conspiracy at all, the question of conspiracy is treated by him later on in his judgment?—Yes; he is not speaking about conspiracy there.

805. Now I ask you, considering *Allen v. Flood*, considering what Lord Lindley calls the far-reaching and important proposition established by *Allen v. Flood*, does it not appear to you that the passage I have read to you from Lord Justice Bowen's judgment relating to the liability of a person who does an act intentionally to harm another, is no longer law?—I suppose it depends upon what the real meaning of the passage is. If you take it in the sense which the ordinary words seem to carry, I should say it was no longer law. But Lord Watson I think in *Allen v. Flood* rather argues that he does not think that Lord Justice Bowen meant that.

806. Well, at any rate if he did mean that it is no longer law?—Yes, if you put it in that way I should agree.

807. That is all I care for. One can of course well conceive a system of law or jurisprudence under which a person who intentionally does harm to another without justification or excuse might be considered as doing a tortious action, but then not only is that not our law but if it were the law our legal system would be entirely vague and uncertain unless it were defined what is a legal justification?—It would leave it entirely to the judge and jury.

808. So it would be left entirely in those cases to the judge or jury to decide what is a lawful justification or excuse?—That I think has been pointed out in several of the recent cases.

809. You have studied all the cases and I ask you this question: Do you know of any case since *Allen v. Flood* which is inconsistent with this proposition—that no act done by an individual (I am not speaking of conspiracy) is tortious and gives rise to a right of action merely because it is done with the intention of harming another?—I do not think I do.

810. In fact you remember that in *Allen v. Flood* Lord Watson says distinctly, Lord Herschell says distinctly, Lord Macnaghten, Lord Davey and Lord James all say

Mr. G. R.
Askwith,

18 May 1904.

Mr. G. R.
Askwith.

8 May 1904.

(nor does the Lord Chancellor say anything inconsistent with it) that the mere fact of intending to do harm and doing harm does not constitute a tort in respect of which an action would lie?—So I understand it—the mere fact of intending to do harm and doing harm does not bring the action within the scope of legal interference.

811. And I ask you whether you can find anything in *Quinn v. Leatham* contrary to that proposition. *Quinn v. Leatham* is a case of conspiracy. I have not been able to find any dictum in *Quinn v. Leatham* which is inconsistent with that proposition?—I do not think it would arise as a point to be discussed in *Quinn v. Leatham*.

812. The only dictum to the contrary is one you read the other day I think, it is the dictum of Lord Justice Romer towards the end of his judgment in *Giblan's case*, where he says that he should be prepared to hold that if an individual intentionally does harm to another without legal cause or justification, that gives rise to a right of action. That is the only dictum I have been able to find which is inconsistent with the proposition I have been putting before you?—I read the dictum of Lord Justice Romer to which I think you are now referring some days ago.

813. I have done with the *Mogul case*. And now a few words on conspiracy if you will allow me, and that is the last subject on which I shall trouble you. You have directed our attention to the Act of 1824, which was followed by the Act of 1825?—Yes.

814. The Act of 1824 repealed all the previous Acts relating to combinations of workmen, did it not?—Yes.

815. And then it contained in the second section this enactment, "journeymen, workmen or other persons who shall enter into any combination to obtain an advance or to fix the rate of wages, or to lessen or alter the hours or duration of the time of working or to decrease the quantity of work or to induce another to depart from his service before the end of the time or term for which he is hired or to quit or return his work before the same shall be finished or not being hired to refuse to enter into work or employment or to regulate the mode of carrying on any manufacture, trade or business, or the management thereof, shall not therefore be subject or liable to any indictment or prosecution for conspiracy or to any other criminal information or punishment whatever under the Common or the Statute Law."?—Yes, that is Section 2.

816. That was a very far reaching provision, was it not?—Yes.

817. Then it specifies in the 5th section certain acts of coercion, and makes those acts as well as combination criminal offences?—Yes.

818. That Act was in force only for one year; and I want now to direct your attention to what Mr. Secretary Bruce, when he introduced the Bill, which became the Act of 1871, said: it is reported in *Hansard*, volume 204, page 259. He speaks of the Act of 1824 and then he says: "The House was aware that the year 1825 was a most disastrous one in the annals of English commerce. The sufferings of the people were terrible, and unfortunately the workmen broke out into acts of great violence; great alarm prevailed; the offences committed by trade unionists, and other workmen, were attributed to the recent relaxation of the combination laws, and although sufficient time had not elapsed to give the Act of 1824 a fair trial, the Act 6th of George IV. was passed which with some modifications was the law now in force. The result of the repeal of the preceding statutes was to replace combinations of workmen under the common law of the land, which was thus described by Mr. Justice Grose in 1798"; then follow the words taken from the judgment?—Is that *Rex v. Mawbey*, referring to the journeymen tailors' case?

819. I think it is. "In many cases" (this is Mr. Justice Grose) "an agreement to do a certain thing has been considered as the subject of an indictment for a conspiracy, though the same act if done separately by each individual without any agreement among themselves, would not have been illegal—as in the case of journeymen conspiring to raise their wages; each may insist upon raising his wages if he can; but, if several meet for the same purpose it is illegal, and the parties may be indicted for a conspiracy." Mr.

Secretary Bruce goes on to say, "This was the common law of England which justified Jeremy Bentham in saying that the word conspiracy served judges for an excuse for inflicting punishment without stint on all persons by whom any act was committed which did not accord with the judge's notions concerning the act in question; and Mr. Fitzjames Stephen's assertion that judges exercised a modified power of legislation in declaring certain acts to be criminal—namely the broad ground of immorality and tendency to injure the public—and that they did so by means of a fiction consisting in treating as a crime not the very acts intended to be punished but certain ways of doing those acts"?—I quite agree that it evidently was the opinion of the draughtsmen of the Act of 1825 that combinations were a conspiracy at common law and illegal, and I remember the passage which Mr. Secretary Bruce cites there from Mr. Justice Grose in *Rex v. Mawbey* in 6 T.R., 636; but I think I should point out that quite different views have been expressed—I have noted them on account of some questions you asked me the other day. Lord Campbell in *Hilton v. Eckersley*, in 1855, 6 E. and B., at page 62, said (and the judgment is cited with approval by Lord Bramwell, I think in the *Mogul case*): "I am not prepared to say that the combination which has been entered into between the parties to this bond would be illegal at common law so as to render them liable for an indictment for conspiracy." Then he cites the passage you have read from Mr. Justice Grose. "But I cannot bring myself to believe without authority much more cogent, that, if two workmen, who sincerely believe their wages to be inadequate, should meet and agree that they would not work unless their wages were raised, without designing or contemplating violence or any illegal means for gaining their object, they would be guilty of a misdemeanour or liable to be punished by fine and imprisonment. The object is not illegal; and therefore, if no illegal means are to be used, there is no indictable conspiracy. Wages may be unreasonably low or unreasonably high; and I cannot understand why in the one case workmen can be considered as guilty of a crime in trying by lawful means to raise them, or masters in the other can be considered guilty of a crime in trying by lawful means to lower them." Then Mr. Justice Wright in his book on Conspiracy at page 56 says this: "The result of the whole appears to be, that there is not sufficient authority for concluding that before the close of the 18th century there was supposed to be any rule of common law that combinations for controlling masters or workmen were criminal except where the combination was for some purposes punishable under a statute expressly directed against such combinations or was for conduct punishable independently of combination. If such a rule is established by the cases decided since the passing in 1825 of the 6 Geo. 4, c 129 . . . this would seem to be a modern instance of the growth of a crime at common law by reflection from statutes, and of its survival after the repeal of those statutes somewhat in the same manner in which combinations for certain kinds of frauds continued to be criminal after those frauds had ceased to be punishable apart from combinations." Then Mr. Justice Stephen in his history of the Criminal Law, volume 3, page 223, says: "I agree with Lord Campbell," that is in *Hilton v. Eckersley*, "that such authorities as still remain are too weak to support the conclusion that an agreement to combine to raise or depress the rate of wages was an indictable offence apart from the statutes which were so long in force. No doubt, however, the opposite opinion was common enough in 1825 to explain the insertion into the Act of that year of the clauses which permit such combinations in some cases."

820. I am much obliged to you for the authorities. Now in *Quinn v. Leatham* it was decided by the House of Lords, and must now be held to be law, that although the Act of 1875 had removed criminal responsibility in certain cases of conspiracy, it left the civil liability as it stood before. It was so held, was it not, in *Quinn v. Leatham*?—The point was mentioned. Then they said *Quinn v. Leatham* was not a trade dispute, you know.

821. (Sir Godfrey Lushington.) They said the Act had nothing to do with civil liability?—They did not bring it under the Act.

822. (Mr. Cohen.) But you will find that all the Lords said that the question of civil liability was left entirely unaffected by the Act of 1875; that that Act only affected

the question of criminal responsibility?—Lord Brampton, for instance, says, “I may also note that the third section of that Act does not apply to civil proceedings.”

823. You will find they all say the same?—There is nothing to contradict the proposition.

824. Now I want to ask you this: I must direct your attention to one or two cases, I am afraid. Is there not abundant authority for saying that in a so-called action for conspiracy the allegation for conspiracy was surplusage so far as the existence of the cause of action was concerned?—That argument was used and has been used over and over again. I think it was put very strongly by Chief Baron Palles.

825. And it seems that Lord Justice Bowen was of that opinion in his judgment in the *Mogul* case; because if you look at 23 Queen's Bench Division, page 616, he says, about ten lines from the bottom of the page:—“In the application of this undoubted principle it is necessary to be very careful not to press the doctrine of illegal conspiracy beyond that which is necessary for the protection of individuals or of the public; and it may be observed in passing that as a rule it is the damage wrongfully done, and not the conspiracy that is the gist of actions on the case for conspiracy.” Then he cites *Skinner v. Guntton*, the well known passage from the report in 1. William Saunders?—Since this conspiracy to injure has become so prominent it may be that those words “as a rule” to a certain extent qualify that sentence, and that Lord Justice Bowen is speaking chiefly about the fact that you cannot have an action without damage, and does not mean to exclude conspiracy to injure.

826. Now *Gregory v. The Duke of Brunswick* is sometimes cited as having decided the contrary, is it not, that there may be a civil action for conspiracy where the conspiracy is not criminal?—Where would you say that judges have said that?

827. I think Lord Brampton cites two cases: *Gregory v. The Duke of Brunswick*, and the case of *Stevenson v. Newnham*; but at any rate it will be enough for me if you are of opinion—I want to know whether you think *Gregory v. The Duke of Brunswick* has decided that there can be a civil action for conspiracy where the conspiracy is not criminal?—I do not think, if you examine into the details of *Gregory v. The Duke of Brunswick*, that that case decided anything of the kind; but I think it has been taken as a standard case as if such a thing did exist. For instance, Lord Macnaghten, in *Quinn v. Leatham* at page 510 of 1901 Appeal, cases, says, “The only other question is this: Does a conspiracy to injure, resulting in damage, give rise to civil liability? It seems to me that there is authority for that proposition and that it is founded in good sense. *Gregory v. The Duke of Brunswick* is one authority” He cites it as his chief case.

828. Let me trouble you with one more observation about *Gregory v. The Duke of Brunswick*. You will find that the counsel for the plaintiff in *Gregory v. The Duke of Brunswick*, in the course of his argument, cited the note of a reporter to the case of *Clifford v. Brandon*, which stated that Macklin a comedian indicted several persons for a conspiracy to ruin him in his profession; that they were tried before Lord Mansfield, and it being proved that they had entered into a plot to hiss him as soon as he appeared on the stage, they were found guilty, that is of criminal conspiracy; and on this note being cited Mr. Justice Maule said to counsel, “This is very like the present case;” so that the judges in *Gregory v. The Duke of Brunswick* held that what the defendants did would render them liable to be prosecuted for criminal conspiracy?—There is nothing to show that that is not the case all through until you come to the end of the report.

829. You remember on the declaration it was stated that there was a combination (and this is in italics I find in the declaration) to create a riot in the theatre. That, of course, would be a criminal conspiracy, would it not?—I suppose so; but still to show the way in which the case went, I must point out that in 6 Manning and Granger's reports, pages 960 and 961, after the judgment is delivered, there is this note by the reporter: “Talfourd, Sergeant; on a former day in this term showed cause;” and then the report goes on with his argument. “There was no evidence to refer the general tumult in the theatre to the defendants. The present case is very distinguishable from that of the conspiracy against Macklin, mentioned in the note to *Clifford v. Brandon*. That appears to have been a

criminal information (not an indictment as stated in the note referred to) against Leigh and others for a conspiracy to ruin Mr. Macklin in his profession by making a riot in the playhouse and preventing the performance of a play in which he was to act, and obliging the manager to come on the stage and discharge him; and evidence was given that there was a regularly organised body of persons employed for the purpose, who were supplied with money and liquor. Undoubtedly there can be no justification for two persons conspiring to hiss an actor; but without a conspiracy parties may agree to go together to a theatre to express their indignation against some proposed representation or at the conduct of some particular performer. The public have invariably done so.” Instead of answering to that, that this also was a criminal conspiracy exactly the same as in Macklin's case “Shee, Sergeant, on a subsequent day (January 23rd) was heard in support of the rule. He referred to Lord Holt's judgment in *Ashby v. White* as an authority that in every case where a man is hindered or obstructed in the exercise or enjoyment of a right he has by law, the law gives him a remedy by action.” That is to say, counsel treats the case as if this was a new form of action, such as would come within the wide principle laid down by Lord Holt in *Ashby v. White*. “The jury in this case were misled by eloquence and prejudice. The defendant's counsel had no right to read the fourth plea to the jury,” and so on.

830. That is only the note by the reporter, but as you have studied that case I want to know your opinion. Do you think *Gregory v. The Duke of Brunswick* has decided that a civil action for conspiracy will lie where there is no criminal conspiracy?—I should have said not.

831. I want further to ask you this. Do you know of any case in which an agreement to do any act which is not a tort if done by a single individual, has been actionable unless the agreement amounts or would have amounted before 1875 to a criminal conspiracy?—I do not.

832. (*Sir Godfrey Lushington.*) There have been a good number of trade union cases lately in which defendants have been found liable in an action for conspiracy, like organising a strike against non-unionists, and so on. Would you say that in all those cases of necessity the defendants would have been guilty of criminal conspiracy but for the Act of 1875. The Act of 1875, you know, precludes criminal proceedings for conspiracy in certain cases. But for that Act would you have said that all these defendants who were found civilly liable would also have been criminally liable?—It is a very involved question; I should have to look at every single case to find if there was an exception before I could say definitely.

833. (*Mr. Cohen.*) Allow me to put one other point to you. It was considered important, was it not, when the Act of 1875 was passed (you have given us the different passages from the opinions expressed by Lord Cairns and others) that workmen should be able to know what acts rendered them liable to prosecution for criminal conspiracy?—Yes, I cited certain passages.

834. I am not going to repeat those passages. That was the main consideration really on which the Act of 1875 was founded, was it not?—I think so.

835. Is it not equally important then, especially after the decision of the Taff Vale case, that trade unions should be able to know what acts make their funds liable on account of conspiracy?—I should say that as a practical matter it was very important.

836. If the law is allowed to stand as it is at present, since *Quinn v. Leatham*, the liability of a trade union and its funds would still depend on what Lord Cairns called “The vague and eluding law of conspiracy.” You would still have in every case to investigate whether there was not a criminal conspiracy?—I think the law of conspiracy at the present moment is in a very uncertain condition. I think that when the Act of 1875 was passed and was limited to cases in furtherance of trade disputes, that it was intended by that Act entirely to do away with criminal liability for conspiracy in those particular cases, and that until *Quinn v. Leatham* came up and the Taff Vale case, nobody dreamt that civil liability continued to exist in cases in furtherance of trade disputes.

837. One word on oppressive combination and I shall cease to trouble you. You remember the Commission which was appointed to codify the Criminal Law?—It was in 1871, was it not?

Mr. G. R.
Ashwith.

18 May 1904.

Mr. G. R.
Abraham.

18 May 1904.

838. Those learned Commissioners did not find that there existed any law relating to what may be called oppressive combinations. I daresay you remember the passage in which they said that they thought it better to define by statute all the cases in which persons could be prosecuted for criminal conspiracy?—Yes, I have read it.

839. You read that, I think, to us?—Yes, I think so.

840. And amongst these provisions there was no provision relating to what may be called oppressive combinations?—In their report, no. They seem to have gone off upon the point of unlawful assembly and to have said "Where the practice of picketing exceeds the bounds of information and peaceable conversation, and takes the shape of besetting the entrance or approaches of a factory or works in a threatening manner, we are advised that, apart from any threats addressed to individuals, the offence of unlawful assembly is committed."

841. A conspiracy consists in the combination of two or more persons, does it not; an agreement between two persons may constitute a conspiracy?—But is an element of conspiracy.

842. What I wish to know is what meaning do you think has been attributed to the adjective "oppressive;" is it defined by any law what is meant by an "oppressive combination?"—No, not that I know of.

843. You do not know any definition at all of what is an oppressive combination?—No.

844. So that the use of that term and its application to the criminal law seems a novelty?—I cannot give any definition of it, and I know of none.

845. Nor do you find, I think, before the last two or three years the expression "oppressive combination" used at all?—I really do not know about that. Of course, you might say that it did not include certain things. I suppose it may be said that subsequent to the case of *Begina v. Drutt* it was held that it did not include the very wide words that Lord Bramwell used in that case, namely, "such as was unpleasant and annoying to the mind;" but that judgment has been cited with approval quite recently.

846. But it would be rather difficult to say that the combination of two persons to annoy another is an oppressive combination?—Well, perhaps it might be said that it was not oppressive, because it would be argued that that case had been upset.

847. On the other hand, it is difficult to know where to draw the line?

848. (Mr. Sidney Webb.) There is one little point I want to ask you about. I think in some of the cases a question has been put to the jury as to whether the workmen may be held to have acted in their own interests, or out of hostility to the plaintiff. You gave us one case in which that exact question had been put and the jury founded upon those terms?—I think I read Mr. Justice Walton's mode of putting the matter in *Giblan's* case.

849. And he put those two alternatives?—I forget the exact words.

850. My point is that he put what I may call an alternative of two. He put the question, did he not, whether the workmen could be held to be acting in their own legitimate interests, or some such phrase; and, as an alternative to that, he put whether they were acting out of hostility to the plaintiffs, or some such phrase—nothing turns on the exact words?—Yes.

851. Do you think that is a complete description of the possible motives. I mean, does not that method of putting the question as to one of two motives, leave an unexplored possibility of there being many other motives?—There may be, I might say, hundreds of different motives actuating a particular strike.

852. But the judge has in more than one case of late years put the question in the form of that sort of dual alternative?—Yes.

853. And my point is, do you not think that the workmen may often have acted not out of hostility to the plaintiff, and also not out of any desire to further their own legitimate interests in the manner suggested—that there may have been many other reasons?—Yes, I can conceive other reasons which would have caused their action.

854. For instance, supposing that workmen strike in order to put pressure on some other employers?—It does not follow at all that when workmen strike they necessarily desire to injure the masters; they may consider the interests of the masters and of themselves more or less on the same basis, but they want to get something for themselves, and in doing that they may very probably injure the masters.

855. But do they always want to get something for themselves?—My point is that there seem to have been suppressed as a conceivably legitimate motive for a strike many considerations which cannot be said to materially be to the advantage of the men striking?—I suppose they want to get something for themselves in some way, not necessarily an increase of their own wages; they may want to get it for the combination or the union to which they belong.

856. It is only a verbal proposition that they want what they want; if you include under "something for themselves" every object of their minds. But that is not my point. Do you not know of cases in which workmen might strike in order to attain some end which is neither hostile to their employers, nor yet any increase of wages, or shortening of hours, or improvement of the terms of their own contracts?—Now you are limiting it very much.

857. Or any other material advantage to themselves as workmen?—I do not know of a case where they would only get a moral advantage and not a material. Would they not be seeking for some material advantage by the strike? Can you give me a concrete instance of the kind of thing you mean?

858. When, for instance, workmen strike in order to aid a class of workmen in some totally different trade, in some other country, can that by any stretch of imagination be said to be any material advantage to the strikers?—Yes, I should have said that they considered it to be so, as strengthening possibly the cause of workmen against employers.

859. But supposing the workmen strike because they refuse to work with adulterated material, or with material injurious to the public, or for making a production which they think to be injurious to the public; would that be a legitimate motive for the action of an individual?—I should think it was a very high-minded motive, but I do not know of an instance.

860. You are not aware of any instance in which trade unions have acted from such a motive?—Not where they have struck simply to protect the public against adulterated material.

861. I think I could find a very large number?—I do not know of one.

862. At any rate my point is that there are other motives conceivable, under which workmen might be acting when they strike which are not included in the alternative of their own legitimate interests, or a desire to cause hostility to their employers?—I have already agreed that I can quite conceive that there are such cases.

863. Then is it not a little open to criticism when the judge puts to the jury the case as though there were only one of those two possible motives?—I suppose in one sense it is an error. Possibly in one of the instances that you suggest of their having done so for some reason that did not in the least affect their material prosperity, or was not for their own interest, evidence of that would be given in the case, and the judge might ask the jury whether they believed it.

864. Would not the jury rather tend to think that they must find one or other of the two alternatives?—If you take that as the only charge that a judge would give in a case; but I rather think if any of these other suggestions which you make did come out in evidence, the judge would pay some attention to them.

865. But in the cases which have happened the judge has not?—I do not know of any case.

866. You do not know of any case where a judge has put more than those two groups of motives as alternatives?—I know of no case in which the judge has called attention to the possibility of their having acted simply from the motive of a desire for the promotion of the well-being of mankind, or something of that nature.

867. But that would be a legitimate motive if they had so acted?—It would be a motive.

868. Do you think that as a matter of law it would be a just cause or excuse for conspiracy to injure not causing any criminal act?—Not necessarily. I do not suppose that an act intended to be for the well-being of mankind is necessarily justified in law.

869. Then on the question of the workmen's own interests, do you not think that in many of the cases it has been rather assumed that the workmen's legitimate interests were mainly an increase of wages?—Yes, I think that has been the tendency.

870. But of course no doubt at law a reduction of hours would be an equally justifiable motive, on the point of strike law?—There are not nearly so many strikes for reduction of hours as for increase of wages.

871. But there are very many strikes for reduction of hours?—It is put in frequently as a motive; but there are not so many as for increase of wages.

872. But I am rather exploiting the motives which would be held to be included within the promotion of the workmen's legitimate interests. An increase of wages would clearly be such a motive?—Yes.

873. And a reduction of hours would be such a motive, would it not?—Yes.

874. And a change in the sanitary conditions under which the men work?—It might be a motive; or a desire to work with unionists only.

875. A desire to work with unionists only would be a motive which at law would be considered to be to the workmen's own interest?—I think it might be in certain cases.

876. And similarly, the workmen might desire to exercise some choice as to the companions among whom they work, irrespective of whether they are unionists or not?—There have been numbers of strikes in order to get rid of a disagreeable overseer or mine manager.

877. But apart from the question of an overseer, there is the question of the companions whom the workmen meet and among whom they work?—Yes, at any rate objectionable companions.

878. That you think would be held at law to be a motive as justifiable as an increase in wages, or of the same order of justification?—I think it might be put to the jury as to whether they considered it to be justifiable.

879. Do you think it is a matter for the jury to consider this or that motive as a cause of justification; is not that making the jury into a legislator?—But that is exactly what is being done.

880. These other legitimate interests would include the improvement of sanitary conditions of the place of work, presumably?—Yes, put in the way you put it.

881. They would also include an alteration in the conditions of safety of the work?—Yes.

882. They would also, in fact, include a change in the method of working which would improve the men's comfort or supposed comfort?—Yes.

883. Does not that mean that all the conditions of the contract of service are equally matters of legitimate interest to the workmen?—All these points are points materially affecting the workmen.

884. Can you imagine any terms in the contract of service which are not matters materially affecting the workmen?—Within the terms of the contract, or within the conditions under which the working is conducted, do you mean?

885. Would not any condition in the contract of service which an individual workman may make be included within the phrase "legitimate interest of the workmen"?—I suppose he would not put it into the contract unless he considered it his legitimate interest.

886. Therefore, does not what you are saying come to this, that all conceivable conditions of the contract of service would fall within the legitimate interest of the workman?—What he would consider to be his legitimate interests.

887. And provided that he does not commit any illegal act or interfere with any one's exercise of any legal right he is entitled to pursue what he considers to be his interests?—Yes.

888. That is to say, therefore, that the attempt that is sometimes made to suggest that workmen cannot legitimately interfere with the organisation of a business would seem to be incorrect: that if workmen think it to their interests to prescribe or proscribe some particular method of working or some particular material or some particular arrangement of the work, that, as forming part of their possible contract of service, is included within their legitimate interests, is it not?—That depends upon how they do it.

889. But that is not my question. It is a legitimate interest to them to desire to do it in the way they think desirable for themselves?—Possibly.

890. But do you draw any distinction at law between a condition of the contract of service which interferes with the management of the business and any other condition of the contract of service?—It is rather a wide question.

891. But you have been telling us that in your opinion all the conditions of the contract of service which an individual may make in what he believes to be his own interests, whether money or any other conception of his own interest, are a legitimate stipulation for him to make at law, and I do not think that you have limited that by suggesting that it must allow the employer freedom to conduct his own business. You do not suggest any limitation?—I have not suggested any.

892. I am glad to bring out that point. That being so, to go back to the charge of the judge to the jury, is it not rather a narrow way of putting the question to the jury, to ask whether they find that the acts have been done in the workmen's own legitimate interest or out of hostility to the plaintiffs?—I think that must depend upon the facts of each case, and it may be that the narrow way of putting it in the particular cases that have arisen was the proper way to put it, but it may be that other points might have been put by judges in some cases.

893. Then just one other question. The act of an individual will not now be held tortious merely because it is intended to be harmful, I think you have told us that?—Yes, I think that is right.

894. But that does not apply necessarily to the action of a combination of persons?—You have got this conspiracy to injure which in my opinion exists.

895. And therefore, when an employer having 1,000 workmen decides to turn off some or all of those men without breach of contract, exclusively because he desires wickedly to harm one or all of those men, he will not be held guilty of tortious action to them?—No.

896. Because he is acting as an individual?—And he is following out his own business.

897. On the other hand, if those thousand men agree among themselves to leave employment solely out of a motive to harm the employer, they will be held liable for tort in all probability?—Is not that rather a broad way of putting it? As you put it, do you mean in breach of contract?

898. No, without breach of contract?—As you describe it, is that anything more than simply leaving work—a strike?

899. But it is conspiring to leave work deliberately, and exclusively with a view to harm the employer. I am probing the question as to whether there is any difference between a mere combination and an individual with regard to this doctrine?—I suppose you might have an instance of that occurring, or something similar occurring, where the facts might bring out that it was, say, with the sole intent of ruining the employer, and that under those circumstances they may be found liable for conspiracy to injure.

900. In *Allen v. Flood* part of the reason for the decision was that they held that there was no conspiracy in fact?—I think nearly all the Lords in *Allen v. Flood* distinguished between the case before them and a case of conspiracy.

901. Supposing there had been a conspiracy in *Allen v. Flood* to maliciously and without justification, but without committing any wrongful act, any criminal act, deprive the plaintiffs of their employment, do you think that such a case now-a-days would be held to give ground for an action?—I should not like to say without reference to the particular case, but may I point out that conspiracy

Mr. G. R.
Ashurst.

18 May 1904.

Mr. G. R. Askwith. to injure has been brought forward in *Temperton v. Russell* and *Quinn v. Leatham*.

18 May 1904. 902. But then if an employer merely out of motive to harm one or more of his workmen refuses to give them any more employment without breach of contract, he would not be liable in tort to them?—I do not see how you are to get at him. He is at liberty to employ workmen or not to employ; he is conducting his business in what he chooses to consider the manner satisfactory to himself, and if he is doing that, even if in doing it he has an intention of harming another person, he is not liable, according to *Allen v. Flood*.

903. But if a thousand workmen enter into an agreement merely in order to harm the employer, or to harm some other workmen, to cease to work for that reason, they would possibly be held liable for conspiracy to injure?—I will agree to use the word “possibly.”

904. In that hypothetical case, therefore, there would have been a change from the former assumption, that it was desirable to put a thousand workmen in the same position as the one employer; that was the assumption of the Act of 1824?—Yes.

905. And, if the workmen are liable for conspiracy to injure in the case I have cited, they would not be liable in the same position, as a single employer?—I do not quite follow your argument about the Act of 1824.

906. But there are many other subsequent Acts with the phrase used of putting a group of workmen in the same legal position as an individual employer?—I beg your pardon.

907. (Mr. Cohen.) May I put one question to you which may perhaps tend to remove many of these difficulties? If the conspiracy is not a criminal conspiracy, then after that proposition which Lord Lindley described as a far-reaching proposition was established, how can motive or intention in any way determine the civil liability? How can it ever be a question of motive or intention in the case of a civil action unless that civil action is founded upon the conspiracy being criminal? Have I made myself clear?—I do not quite follow you.

908. Take the case of a conspiracy which is not a criminal conspiracy. How, after that proposition has been established by *Allen v. Flood*, can you have anything to do with the intention or motive in the case of a civil action?—But then a question is, does *Allen v. Flood* establish it? One would have thought that *Allen v. Flood* would have prevented such contention.

909. In fact some courts have followed that dictum of Lord Justice Bowen to which I have just called your attention, and so far as I can judge it would seem outside the proposition said by Lord Lindley to have been established by *Allen v. Flood*. How can in a civil action, where there is no criminal conspiracy, motive, or intention, be material in establishing civil liability. In *Temperton v. Russell* and in *Quinn v. Leatham* the combination would have been, before 1875, a criminal conspiracy undoubtedly?—Yes.

910. Therefore the judgments in the House of Lords are quite intelligible when they say it would have been before the Act of 1875 a criminal conspiracy and therefore a tort; and then they say—it appears to me quite logically, if I may say so with great deference—that the Act of 1875 did not affect civil liability, therefore it existed as before. I want to make this perfectly clear, that supposing it was not before the Act of 1875 a criminal conspiracy, what can motive or intention have to do with the question whether there is any civil liability?—I should have said nothing.

911. (Sir Godfrey Lushington.) Bearing on the same matter, in *Quinn v. Leatham* and in various cases which have followed, which have been cases of action against non-unionists, the combination has been declared an oppressive combination. In what respect was it an oppressive combination; was it because it was a combination to commit a crime?—I should call that an oppressive combination.

912. But that is not the reason of these cases?—No, it has not been limited to that.

913. Is it because there was a combination to commit a tort?—It has not been limited to that.

914. It is not because it was a combination to commit a crime?—No.

915. Nor because it was a combination to commit a tort?—No.

916. Then was it because it was done with a malicious motive?—No. I think malicious motives we agreed have gone out.

917. Then was it because on the whole the judge thought it was that the conduct towards the non-unionists had been excessive, a little beyond the line. If so, in what does that oppressiveness consist?—There is no definition of the line in any of those cases.

918. Then is there any answer to the complaint made, that in these cases of conspiracy it is left to the discretion of the judge and jury to hold whether the defendant shall be liable in an action or not?—Well, in certain senses it is.

919. (Chairman.) But is there any real difference in that from the fact that a great many legal positions depend upon what is called fault, *culpa*, a great many legal effects flow from that; but when you come to say what fault is, it will always depend upon the judge and jury?—Quite so; and the same with committing a nuisance. You cannot define exactly what a nuisance is; it has to be decided in each case what they think is a nuisance.

920. (Sir Godfrey Lushington.) Do you apply that to these cases; do you think that the judges have considered whether there has been that amount of excess which constitutes a nuisance?—I know in some cases, in the cases I quoted to you the other day, which occurred quite recently, the very thing, oppression, was found; the jury thought some men had been harmed a little and they gave them damages.

921. But the judges have not expressly decided on the ground of nuisance, have they? It comes back to this: That in these cases the judge and jury discuss whether the conduct of the defendants was either in excess of what they could properly do or fell short of what they were bound to do, and on this have decided whether the defendants have done an actionable thing or not?—Upon the facts of each case, yes.

922. I should now like to put to you a number of questions which can be very briefly answered, which bear upon the same subject, that is to say, upon the alleged uncertainty of the law. Supposing that you were counsel to a trade union and they came to ask you for your advice, and supposing they informed you that the executive thought the time had come for a rise in wages, and they proposed to send round one or two delegates to sound the men as to whether they were willing to strike and to urge them to do so, would you be able to advise the trade union whether one delegate going round in that way would commit a tort or not?—One would have to take into consideration all the elements of what he was going to do.

923. That does not help me, you know?—But the question is rather a wide one.

924. The delegate is to go round to suggest to the men that it is time to strike. Would he be guilty of a tort in so doing?—Assuming the various hypotheses which you have indicated in your last questions, and particularly the words urging to strike, I think there are such conflicting dicta in different cases, as has been already pointed out, that a definite answer would be almost impossible.

925. Now supposing two delegates go round with the same object; are you prepared to say that they would not be guilty of conspiracy or liable for an action for conspiracy?—There, again, you see, what do the delegates do? If you can tell me that, then one might be able to say; but one must get the facts as a basis on which to give one's view. I am prepared, however, speaking generally, to repeat my last answer as an answer to this question too.

926. You know Lord Lindley's remarks in *Quinn v. Leatham*?—Yes.

927. Would you read them?—On page 541, Lord Lindley says this: “I am not at present prepared to say that the officers of a trade union who create strife by calling out members of the union working for an employer with whom none of them have any dispute can invoke the benefit of this section even on an indictment for a conspiracy.”

928. That is not the passage I mean. I will pass on to another case. Supposing the men are resolved to strike and you are advising the executive, can you advise them whether if a delegate informs the master that the men mean to strike he will or will not commit a tort?—Lord Lindley's remark goes even beyond your suggestion. With regard to your last question, after *Allen v. Flood*, I should advise them that he would not commit a tort, but the exact restriction of the delegate's acts would have to be very carefully considered.

929. Then supposing that there are two delegates who go to the master and announce a strike, would they be liable to a charge of conspiracy?—I should say not, if they only announced a strike, but the same consideration applies.

930. Supposing now that the strike had begun and that the executive were eager to promote it and with that view proceeded to peaceably persuade the workmen to leave the employer but without breach of contract, or that they exerted themselves to dissuade other men from entering the service of the employer against whom the strike is being conducted, would the executive who promote a strike in that way be liable to an action or not. I am supposing they come and ask you for advice and you have to advise them?—It is very difficult to say. On general principles I should advise them personally that they were not liable; but it would depend how it was done, and how far the Act of 1875 might hinder them, and also the dicta of judges with regard to outside interference would be a serious stumbling block to any definite advice.

931. Now supposing a black list was sent round during a strike, would you be able to advise whether one workman carrying a black list would commit a tort?—I should tell him he probably was. After the remarks which have been made by judges in a great many cases it appears to me that the black list is one of the most dangerous forms of attempting to promote a strike that any person employed in carrying out a strike can possibly use. Lord Lindley makes a strong remark, for instance, in *Quinn v. Leatham*. At page 538, he says: "Calling workmen out involves very serious consequences to such of them as do not obey. Black lists are real instruments of coercion, as every man whose name is on one soon discovers to his cost. A combination not to work is one thing and is lawful. A combination to prevent others from working by annoying them if they do is a very different thing, and is, *prima facie*, unlawful."

932. Then subject to the exception in the Act of 1875, would you say that if two workmen carried round a black list they would be guilty of criminal conspiracy?—I should say they render themselves very liable indeed to be indicted for criminal conspiracy.

933. Now supposing the strike goes on and in order to strengthen their hands the promoters of that strike stir up a secondary strike in another trade, of men in the employment of another master, how would you advise the union executive as to whether they would be within the law or not?—As long as *Lyons v. Wilkins* stands I should think it was a very dangerous thing to do.

934. You say that you would have to advise the executive that it would be dangerous to organise a secondary strike after *Lyons v. Wilkins*?—Yes, I think so.

935. The reason why it is dangerous or improper is that the promoters have not got, or are supposed not to have, an interest in the secondary strike, which they had in the primary strike?—There are statements of judges in which it appears that the section of that Act is confined to the employers and workmen in the one department of the trade actually involved in the primary strike.

936. That promoting a secondary strike is not an act done in furtherance of a dispute between employers and workmen?—Yes.

937. Then would you apply the same doctrine to outsiders who subscribe, for instance, to a strike; would they

be liable for assisting that strike because there was no dispute between them and the employer?—I think it would be very difficult to say that they were not liable to incur a risk. I am not quite sure that that point is not going to be litigated in the Denaby case, through the subscription of what they called nipsey money, which these workmen obtained during the strike. Of course the union was found liable for the contributions which they gave, but in practice I think it was found difficult to discover who had supplied the nipsey money, through what organisation it came; but I fancy it was discussed whether they could not hit the people who had supplied the nipsey money.

938. Supposing the case was that the union wished to strike against non-unionists, could you advise the executive whether they could safely do so or not?—If it were a strike *per se* against non-unionists I should advise them that they could do it I think.

939. Then what is the difference between that case and *Quinn v. Leatham*?—But *Quinn v. Leatham* was held not to be a trade dispute. You are putting it that the unionists and the non-unionists are under the same employer, and that the unionists, not wishing to have non-unionists employed on the work, strike, and say, we are going out until you have got rid of your non-unionists.

940. Yes?—I think I should say they could do that; and it has been done over and over again.

941. But does not *Quinn v. Leatham* decide the reverse? That was the case in *Quinn v. Leatham*, and it was held to be an oppressive conspiracy?—Oh, no, certainly not.

942. Yes, surely?—It was not merely striking because they did not wish to have non-unionists employed with them; it was a great deal more than that.

943. What else was *Quinn v. Leatham*, but a case of organizing a strike against non-unionists?—I should say that *Quinn v. Leatham* had a great deal more in it. Accepting that view for the purpose of argument, that that was what *Quinn v. Leatham* decided, then it would be difficult; but I should not accept that.

944. You would not feel that you could safely advise the union that they could strike against non-unionists?—I should not myself feel that *Quinn v. Leatham* would prevent me from saying that they might strike if they wanted to, on the ground that they did not wish to work with non-unionists.

945. (Mr. Cohen.) What is the head-note in *Quinn v. Leatham*?—The head note is "A combination of two or more, without justification or excuse, to injure a man in his trade by inducing his customers or servants to break their contracts with him or not to deal with him or continue in his employment is, if it results in damage to him, actionable." The headnote is to say the least meagre. I gave a short synopsis of the case, and the full facts are admirably stated in the judgment of Lord Brampton.

946. (Sir Godfrey Lushington.) "Or not to deal with him"—that is the point?—You see there have been many strikes of workmen striking against non-unionists, and nothing has happened.

947. Then I put it in this way:—Strikes against non-unionists are extremely common?—Yes.

948. The number of cases which have been brought into Court of strikes against non-unionists has been small?—Yes.

949. What then is the ground on which the defendants have been found liable in those cases which have come before the Court?—Can you point to me a case in which they have been found liable simply for striking for that reason?

950. *Quinn v. Leatham* for one?—I do not agree that *Quinn v. Leatham* means that. The case you are putting is simply an ordinary strike. The defence would be "I am allowed to leave work; what is the control over me."

Mr. G. R.
Askwith.

18 May 1904

TENTH DAY.

Wednesday, 1st June, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair.*)
 Sir WILLIAM THOMAS LEWIS, Baronet. | ARTHUR COHEN, Esq., K.C.
 Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., L.L.M. (*Secretary.*)

Mr. AMMON BEASLEY called and examined.

Mr. A
Beasley.
1 June 1904.

951. (*Chairman.*) You are general manager, I think, of the Taff Vale Railway?—I am, and have occupied that position nearly thirteen years.

952. The Taff Vale Railway Company is well known in connection with the subject we are investigating, because of the well-known case, of course?—Yes. I thought it would be convenient to put a map before you, because it would enable you to see at a glance the district which the railway serves (*handing in the same*).

953. You hand in this map which shows the district which the Taff Vale Railway serves?—Yes. You will notice that in the centre of the map at the top there is Treherbert, which is one terminus; and then there are a series of valleys, and the railways have followed the valleys. The next terminus is Mardy Station, just a little at the right, then Aberdare and then Merthyr. That is the district which the line chiefly serves; but going away to the south-west down to Cowbridge and Aberthaw, there is a railway which does not go through a coal district but what is wholly or almost entirely an agricultural district. The principal districts served are those valleys which you see passing directly from north to south.

954. The railway in fact is principally, therefore, a coal railway?—Yes, of our gross receipts I suppose nearly seven-tenths are derived from the carriage of coal.

955. These small branches which I see on the map are obviously to collieries?—Yes, some of them are; the collieries lie all along the railway; some of them are very close together, not more than a quarter of a mile apart. There are something like seventy collieries altogether on the Taff Vale system.

956. In your position have you been brought into contact with various trade unions?—Yes, with two certainly, and indirectly a third, the Miners' Federation.

957. Which are the two you have been brought directly into contact with?—The principal one is the Amalgamated Society of Railway Servants, and the other is the Associated Society of Locomotive Engineers and Firemen; and we also had a strike some years ago, in 1895, of the fitters in our workshops, in which case we had to deal with the Society of Engineers. Of course, directly we have nothing to do with the Miners' Federation; but anything that leads to a strike in the mining industry is very disastrous to the Taff Vale Railway.

958. Perhaps you will tell me first, as a railway company, what are your arrangements—I mean about locomotives and rolling stock; do you build your own? Have you engine shops?—We do not build, we repair? All our construction work is done by contract.

959. But you have repairing shops?—Yes, and we employ a very considerable number of men.

960. Now as regards your own ordinary railway servants, do many of them belong to the union that you have mentioned, the Amalgamated Society of Railway Servants?

—In certain grades we are given to understand that a very large number of the men belong to the Amalgamated Society of Railway Servants; those are principally the guards of the goods and mineral trains, and signalmen, and drivers and firemen, although I have no doubt that some members of other grades are also members of the union. But I should say that I am speaking only from what is known to the public, because personally and individually I have no knowledge whatever whether a man belongs to a union or not. I have never once asked a man, or allowed a man to be asked, whether he was a member of a union or not. I need scarcely say, therefore, that no difference whatever is made between union and non-union men.

961. In what particular instances have you been brought into what I may call active contact with the action of the unions?—I should say first, that there was a strike very similar to the strike of 1900, in 1890; but that was before my time, therefore I have no personal experience of that, though, of course, I know all about it and am prepared to show that in a measure the strike of 1900 resulted from the strike of 1890. But then there was the strike of the fitters, to which I have just now referred, in 1895; and then the strike of 1900, which, of course, led to the proceedings in what is known as the Taff Vale case.

962. The strike of 1900 was a strike of whom?—It was a strike of drivers, firemen, guards, and brakemen—brakemen being assistant guards of mineral trains—and signalmen. Those were the only grades of men who gave notice. Some gave notice and some did not, but it was from those grades that notices were given. Then a considerable number of men struck in sympathy, as, for instance, all of the men employed at our dock at Penarth, which you will find at the left-hand corner of the map, just at the bottom; practically all the men except the nautical men at Penarth Dock went out in sympathy.

963. (*Sir William Lewis.*) In fact all the men who controlled the traffic?—Yes.

964. (*Chairman.*) All the men who controlled the mineral traffic?—Yes; the passenger men as a rule did not strike.

965. I understand that you wish to give evidence upon the subject of the constitution of the societies as you have been brought into contact with them, and their methods of proceeding?—Exactly.

966. Will you kindly do so?—The society with which one has been principally brought in contact is the Amalgamated Society of Railway Servants; that society was established in 1872. When it started in the first year it had a membership of 17,247; it went on fluctuating until the year 1897 when its numbers reached 85,928. Since then the membership has been generally falling. I mention these facts because I want to show how very small a proportion of the railway servants are members of this union. I have just said that in 1897 the number of members was 85,928; in the following year it fell to 54,426; in 1899 it increased to 59,819; in 1900 to 62,023.

since then it has been falling, as I have just said: in 1902 the number was 53,453, and on the 31st of last December, 52,355.

967. Where do you get all these figures?—From the official report of the society, a copy of which I produce. This is the latest one (*handing in the same*). *Vide Appendices, pp. 11–19*. The membership, as I say, of late years has been falling, notwithstanding the most persistent efforts to induce men, and I go as far as to say to force men, into the society; but the fact that their numbers are falling shows that the railway men as a rule will not join a trade union, and that they are content and satisfied with the terms of their service.

968. Taking the last year, you have given us the figure of 52,355; what was the total number of railway servants?—The last return was prepared about three years ago. The Board of Trade about every three years get a return from the railway companies of the numbers of men employed in the various grades. The last one was, I think, in 1901, and the total number was 575,834; so that you see the membership of the society is about one in eleven of the total number of persons employed. The objects of the society are, in general accord with those of other unions, partly benevolent and provident, and partly protective or established for protective purposes. There is an orphan fund also attached; that is very largely supported by contributions of the outside public, and in that respect, I think, the society is rather unique. The objects of the society as set out in the rules are, “To improve the condition and protect the interests of its members; to endeavour to obtain and maintain reasonable hours of duty and fair rates of wages; to promote a good understanding between employers and employed; the better regulation of their relations and the settlement of disputes between them by arbitration, or, failing arbitration, by other lawful means; to provide temporary assistance to members when out of employment through causes over which they have no control, or through unjust treatment; to provide legal assistance when necessary in matters pertaining to the employment of members, or for securing compensation for members who suffer injury by accidents in their employment, occasioned by the negligence of their employer, or of those for whom their employer is liable; to aid the young orphan children of all members and to use every effort to provide for the safety of railway work and of railway travelling. Also to provide a grant of money in case of members permanently disabled or killed by accident, or when, by reason of old age they cannot follow their regular employment.” That is Rule 2. Then I desire also to refer to Rule 6, because that has a material bearing upon the question of strikes. Every man who is engaged in furthering what they call a “movement,” but which I should prefer to call an “agitation,” is paid by the society, and, I think, the amount which they are paid is 12s. 6d. a day when engaged on the business of the society, and third class railway fare to and from the place to which they go.

969. (*Sir Godfrey Lushington.*) You mean a delegate or agent?—It applies to all persons who are engaged in promoting “movements”; it may mean any member of the society who chooses to foster a movement. If it has the approval of the executive committee, then he is paid for all the time he is engaged on that movement. I mention that, because I think that the frequency with which these movements are set on foot and kept up arises, to a large extent, from the liberality with which they treat men who are so engaged.

970. (*Mr. Cohen.*) Where is that to be found?—It is in Rule 2, sub-Rule 6: “Each representative shall receive 12s. 6d. for each day’s attendance, and the time actually necessary for travelling to and from the place of meeting, and be allowed third class railway fare, the same to be paid from the fund formed, as per Clause 5.” Similar rules are Rule 3, sub-Rule 6, and Rule 16, sub-Rule 7.

971. Are those rules to be obtained?—I think I have a spare copy. (*The rules were subsequently handed in.* *Vide Appendices, pp. 20–31*).

972. Are they for sale, I mean?—I had these copies in the course of the recent proceedings.

973. You do not know whether they can be bought?—I do not know. I may say that the secretary of this

union, Mr. Richard Bell, who is Member of Parliament for Derby, speaking at a meeting in Liverpool in 1899, seemed to be fully aware of the effect which this payment of 12s. 6d. a day had upon the frequency of these movements, because he said (it was reported in a local newspaper, the *Western Mail* of the 24th of May, 1901):—“A man cannot move now without getting 12s. 6d. for it.” Then according to the rules any person permanently employed, or any extra man continuously employed for a period of twelve months on any railway in Great Britain or Ireland, is eligible for membership. I have already given you the numbers and also the numbers of the men employed in the railway service. I should say that in explanation of the fact that such a very small number of men join the society, it has been stated that the society does not cater for certain grades of the service; but the rule says that any person permanently employed, or any extra man continuously employed for a period of twelve months on any railway in Great Britain or Ireland is eligible for membership. So that, as a matter of fact, they cater for every grade. Of course I need scarcely say that there are a large number of clerks in the railway service included in those 575,000; the number as shown is: stationmasters, 8,103; and clerks, including boys, about 61,000; so that about 70,000 persons out of the 575,000 are clerks, and although they are eligible for membership, and there used to be several branches purposely for clerks, very few clerks indeed are members of the society; but still they do try to get them into the society, and they succeed in getting a few; I think Mr. Bell stated publicly the other day that there were about 70 clerks. Those numbers that I have given I think show that the society is in no sense a representative body, although it is too often, I think, accepted as such, and as having the right to speak for the railway men generally.

974. (*Chairman.*) Then you wish to give us some particulars as regards the funds?—As regards the funds of the society, on the 31st of December last the gross amount of the funds in hand amounted to £278,842; that was about £1,000 less than at the end of 1902, the society having in the meantime paid £23,000 to the Taff Vale Company as damages for the strike. The invested funds, amounting to £264,686, are under the following heads. There is general administration, central and legal, £4,989—I am leaving out shillings; donation, which I think means out of work pay, £80,459, and protection, £32,966.

975. (*Sir William Lewis.*) Are those monies which have been paid out?—No; I am reading the balances in hand on the 31st of December, 1903. Protection, £32,966, that is really the only sum which they hold which is specifically ear-marked for protective purposes or strike purposes.

976. (*Chairman.*) That is to say, they so keep their accounts that they detail their funds under separate heads of the account?—Yes.

977. These are the balances on each branch of the account?—Yes. Then they have a parliamentary fund, £818, that is to pay the expenses, I suppose, of Mr. Bell, or any other of their members who may enter Parliament. And then there are some small sums making up the total of what they call “No. 1 Account,” or “Trade Union Funds,” £102,831. Then they keep a separate account this year for the first time—I should like to refer to that in a minute; for the first time they have divided their funds, and separately invested their funds. The figures I have just given you relate to the trade union fund. Now I give the provident fund, disablement and death, £76,854; orphan fund, £81,642; sick fund, £3,347, making, with one or two small items, £161,854, as the total of the provident funds. As regards that, the Commission may perhaps be aware that although trade union funds are ear-marked in the manner in which the funds of this society are ear-marked, it is always given out that the whole of the funds, whether subscribed for provident purposes or, as in this case, subscribed for the relief of widows and orphans, are available in the case of a strike; and that came very prominently forward in the early days of the Taff Vale strike. A statement was inserted in the *Times* which was received from the Assistant-Secretary of the Amalgamated Society of Railway Servants, and was as follows:—“It has been

Mr. A.
Beasley.

1 June 1904.

Mr. A.
Beasley.
1 June 1904.

stated in connection with the existing troubles, that our society boasts the possession of £250,000 with which to enter upon a campaign, and that that sum represents the accident, the benefit, and sick funds. That is quite true; but these funds are available for the purposes of a strike, and very properly so. As the late Registrar General said, 'The maintenance of its own existence must always be the first object of a trade union.' I have already said I think that this society is, so far as I know, unique, in the sense that it invites subscriptions and donations from the benevolent public for the orphans; and so successful are they in getting contributions from the outside public that more than half of the income of the orphan fund is so derived. Notwithstanding that, and notwithstanding that they have accumulated, as I have just shown, £81,642, the whole of that sum is stated to be available in the event of a strike. Now, in reference to suggestions which have been made publicly and otherwise, that it was possible for a trade union to keep its provident funds and its fighting funds separate, it may be interesting if I refer to the fact that for the first time in the history of this society the provident funds and the protection funds are separately invested. I have before me a book showing statements of the investment of No. 1 account, that is the protection account, and of the investment of No. 2 account, that is the provident, widows and orphans, and death funds, and so on; so that this society has really invested its funds separately. I believe that the funds are in the hands of the same trustees, but that they are separately invested is clear from those statements.

978. (Mr. Cohen.) For what year is that?—This is for the year 1903. This book was published quite recently, and I say it appears in these accounts for the first time this year. (*The accounts were subsequently handed in. Vide Appendices, pp. 11-19.*) It does not appear that although they have invested the provident funds separately they are careful to invest them in safe securities, because I find that while the protection funds, perhaps not the whole, but the greater part of the protection funds, are invested in railway debenture stocks which are presumably safe, the provident funds are nothing like so safely invested. For instance, I find the first item, King's Cross Publishing Company debenture shares, £1,000; Co-operative Printing Society shares, £200.

979. (Chairman.) I do not think you need go on with that; I cannot see that that is a point of any moment. It is obvious that they might alter their investments to-morrow?—I agree. The important point is that this society has taken the step of separately investing its provident funds apart from its protection funds. This particular point was referred to at some length by Lord Macnaghten in giving judgment in the Taff Vale case in the House of Lords, when he said (*Vide p. 437 of 1901 A.C.*): "If you take up the report of the Royal Commission on trade unions, and turn to the statement accompanying the Minority Report, to which Mr. Haldane referred, you will see that there was nothing on which the advocates of trade unions insisted more strongly than on the right of unions to employ the whole of their funds if they chose for the purposes of strikes, and in connection therewith. 'At present,' say the authors of that statement, 'the strength of the union, and the confidence of its members, simply consists in this, that it can, if so disposed, employ the whole of its funds in the support of the trade ends.' An enforced separation of the funds of the union would be, they say, 'arbitrary interference with the liberty of association,' it would 'paralyse the efficiency of the institution.' The suggestion of such a proposal was 'tantamount to a proposal to suppress unionism by statute.'"

980. Which is the next society to which you wish to refer?—One of the other societies, to which I have already referred, is the Associated Society of Locomotive Engineers and Firemen. That society was established, so far as I can ascertain, about the year 1880, and at the end of 1902, which is the latest year I have, it had a membership of 11,002; that was an increase of about 500 over the previous year. Now the whole of these men are in the railway service, but some 15,000 men in the locomotive departments of the various railway companies are in the Amalgamated Society of Railway Servants, that

is to say, the total membership of this society (the Associated Society of Locomotive Engineers and Firemen), on the 31st of December was 11,002, and the whole of those men must be in the railway service by their rules; but the Amalgamated Society of Railway Servants which, as I have already shown, caters for the whole of the railway servants, has some 15,000 locomotive men in its ranks. Now it does not follow from that that the total number of locomotive men is, therefore, the sum of those two figures 11,000, and 15,000, because I have no doubt that a considerable number of the locomotive men are members of both societies. And these two societies quite recently have entered into a sort of offensive and defensive alliance, in no respect is it an amalgamation, but I suppose for protective purposes they have joined their forces. The funds of that society on the 31st of December, 1902, amounted to £107,382, made up as follows: the Management Fund £1,202; the Legal Defence and Incapacitation Fund, £41,837; the Superannuation Fund, £32,907; Orphan Fund £184; General or Death Fund, £26,344; and Branch Sick Fund, £4,908.

981. These accounts seem to be kept in the same general way as the accounts of the Amalgamated Society of Railway Servants. You are reading the balances to the credit of the fund?—Yes.

982. But do the accounts show, first of all, the actual payments made out of each of these funds during the year (I do not want the figures; I only want to know if they are shown); and, secondly, do they show any rule by which the various funds are augmented in any specified proportion? Except as a mere form of account it really tells one nothing if one is told that at the end of a certain year there is a certain balance standing at the end of a certain account. You also want to know, first, what particular payments have been made out of that account during the year; and, secondly, you want to know whether, when you come to fill up that account from the general funds that are coming in yearly of the society, that is done according to any specified rule or proportion, or just simply by the will of the executive for the moment, that so to speak tips into one particular account a certain amount, because they think that account wants help, or have they any general rule that a certain proportion of their funds shall always go to a particular fund?—Yes, the rules provide for that. The men pay, taking the Amalgamated Society of Railway Servants, either 5d. a week or 3d. a week, 5d. under what they call scale A, and 3d. under what they call scale B. And the 5d. under scale A is allocated in this manner: Contribution for donation (that I think is out-of-work pay), legal assistance, superannuation, movements and management 3½d. per week; contribution for protection fund, 1d.; orphan fund ½d. Under Scale B, the contributions for donation, legal assistance, movements, and management account for 2½d. a week; and the protection fund ½d. You see in Scale B they are not eligible for superannuation—that appears to be the only difference; so under Scale B they contribute 2½d. a week instead of 3½d. a week. And then there is no contribution under Scale B to the orphan fund.

983. Have they no right to an orphan fund?—According to that, no; and the contribution to the protection fund is ½d., instead of 1d., which means, I believe, in the case of a strike, that the men on strike get a smaller weekly payment. Then it follows that the money as it comes in is allocated to these various funds. Now your other question was as to the payments made. I find the payments are classified in this report under these heads: "Paid for legal assistance," "Paid to members out of employment," "Paid from protection fund," "Superannuation and death grants," and "Paid to orphans and members"; so that they do keep the accounts under the separate heads. I suppose it has been already put very fully before you that the members of these societies have no legal claim to the benefits which they are supposed to get, and, of course, do get to a large extent, under these rules; but I only refer to that incidentally as showing that very often the fact that the men have no legal claim leads to acts of very great oppression and tyranny. I have had furnished to me quite recently, officially, the particulars (they are very brief) relating to a recent expulsion of twenty-eight members of the Shipwrights' Society at Newport. I simply give that as an instance,

which, I think, might be added to, but this one will perhaps be sufficient as showing the methods of the trade unions. This memorandum was sent to me on the 15th of September last.

984. Why was it sent to you?—I saw a reference made to it in the newspapers, and so I sent to the secretary and asked him whether he would kindly furnish me with the particulars, and these are the particulars given, which are obtained from the secretary of the Newport Engineering and Ship Repairing Company, and the President of the Engineers and Ship Repairers' Employers' Association: "The shipwrights of Newport sent us" (that is, the employers) "rules that were altogether unreasonable; we discussed the matter with them, and after three months negotiations, sitting during the day and at night, settled all the rules with the exception of one." I may say that that refers to this. There are certain, what one may call working, rules agreed upon between the masters and the employed, governing the rates of pay, the hours, and various other things. "The disputed rule was as follows:—We maintained that in private dry docks we had a perfect right to keep men working a full day for a full day's pay. The men maintained that when they docked a steamer, they ought to have a full day's pay, whether the work occupied one, two, or three hours. We insisted that if we had work in addition to that which would occupy their full day, we were entitled to require its performance for the day's pay. The men gave peremptory notice and struck work. The employers themselves docked their ships and worked as journeymen. After working for some six or seven weeks in this way the men came back to work and brought in as a mediator the district delegate of the Bristol Channel District. He, seeing the matter was very important, asked their general secretary (Mr. Cummings, of Newcastle) to assist him. He did so, and the matter was settled. Upon the first occasion, some three or four days after the settlement, that the rule in dispute had to apply, the men objected to the rendering of the rule as given by the employers. The employers then left the matter entirely in the hands of these two mediators" (those were the secretaries of the men's union themselves) "to say what was their rendering of it. They made a written statement, which was precisely what we ourselves" (the employers) "had stated in the first instance. Notwithstanding this, they went out on strike a second time. We then employed under a six months' agreement of constant work at the Port wages, twenty-eight men who were members of the London Provident Shipwrights' Society. These men honestly and faithfully carried out their agreement, and after they had been here three or four months the Newport men came back upon the old terms. In the meantime, these twenty-eight men received notice from their society that they were dismissed from the society; they applied to be taken back at the expiration of the agreement. Meanwhile, they regularly made their payments to the association, and at a convenient opportunity when one of the members was in London they tendered their subscriptions, which were refused. I afterwards heard that they would not take them back."

985. What is the distinction between a payment to the association and a subscription?—They mean the same thing.

986. Then how can both things happen. How can they pay their payments and have their payments refused. Did the society take the money from them?—They refused it; it is clear from the notes that their contributions were refused.

987. (Sir William Lewis.) They offered the payment?—That is probably what it means. First of all it says "meanwhile they regularly made their payments to the association"; and then it goes on to say, "when one of the members was in London they tendered their subscriptions, which were refused." There is some little discrepancy there; but the main fact is that they refused to receive their subscriptions. "The Bristol Channel Ship Repairers' Federation were very anxious to have these men re-instated in the society, and went to the expense of consulting counsel, who went through their rules, but there was some technical objection which, counsel pointed out, would render the action fruitless, and although we" (the employers) "were prepared to stand behind them

for a considerable sum, we did not care to contest the case when there was no chance of winning, as that would only strengthen the hands of the trades unions." That is the statement that was made to me. We had a small instance ourselves of that kind about a year or a year and a half ago at Penarth Dock, where we do a large amount of dredging, and keep a dredger of our own for that purpose. One night the dredger, in a gale, foundered. It was very necessary that she should be raised as soon as possible, and we put some men on to her at low water in order to stop the leaks; I think there were three or four men altogether, and they were asked to work on the Sunday. All but one refused to work on Sunday, because they said they could not do so without the consent of the secretary of their union. The other man did work on the Sunday, and subsequently was sent for by the secretary of the union and threatened that if he ever did it again he would be fined 20s. In my opinion the disability under the Trades Union Acts of members to sue for contractual rights under the union, not only leads to tyrannical expulsion such as in the cases I have quoted, but also provides a direct weapon on the part of the executive which wishes to foster a strike to coerce the men into joining a strike, and doing actions which otherwise they would disapprove. The strike of fitters, which I have already referred to, in 1895, I think affords again evidence of the tyrannical manner in which the unions sometimes act. By the rules of the Engineers' Society—this is a third society—the system of working by piece-work is not exactly forbidden, but it is surrounded by some very severe restrictions. Rule 36 on page 105 says: "Members are not to consider that, because the following penalties are attached to members working piece work, the society looks upon the system with the slightest degree of favour, but on the contrary, the society considers it one of the greatest evils it has to contend with, and it, therefore, becomes the duty of every member to permanently dispense with piece-work whenever an opportunity presents itself, and certainly to prevent its introduction into any shop or district where it does not exist." There are certain fines in the event of men working piece-work and not following certain rules, which I need not refer to. I read that rule because in the Taff Vale shops up to that date the men had not been working piece-work.

988. (Mr. Cohen.) What date was that?—1895. The locomotive engineer not being satisfied with the amount of work he was getting out of his men, conferred with some of the older men and suggested that they should agree piece-work terms,—that the several jobs should be specified and a price put to each. The men were very willing, and they agreed a schedule of prices and were perfectly satisfied with them, and they had reason to be so satisfied, because the schedule of prices would have enabled them within the limits of an ordinary day to make what they term time and a quarter; therefore the men were very well satisfied, and they were anxious, in fact, to go to work on those terms. They applied to the local secretary of this union for permission to work, and he refused to give them permission and told them that if they worked at piece-work at all they would be expelled the union. The men then begged the engineer to cancel the agreement while expressing their complete satisfaction with it, and their personal desire to work under it, as it would have enabled them, as I have already said, to earn wages equivalent to time and a quarter within their ordinary hours. The request was referred to me in the ordinary course, and I saw no reason why our works should be controlled by irresponsible persons unconnected with the company, or why men who were willing and anxious to carry out the arrangement, if permitted by their union, should not be supported, and I declined to cancel the agreement. The men again appealed to their union, without success, and rather than sacrifice the benefits for which they had been paying for many years, they left the company's works in a body on the expiration of their notices.

989. (Sir Godfrey Lushington.) On the expiration of their notices?—They gave notice. There was no breach of contract at all, and on the expiration of their notices they left.

990. (Sir William Lewis.) Notice to their employers?—Yes. No sooner did the men go out than every kind

Mr. A.
Beasley.

1 June 1904.

Mr. A.
Beasley.
June 1904.

of pressure was brought to bear upon me and my directors to take them back, that is, to say, by the secretary of the union, who had in fact forced the men out.

991. (*Chairman.*) To take them back on what terms ?—It came at last to be on any terms.

992. That is to say, they would come back on piece-work terms ?—Yes, at last. They thought at first they would force the company to take them back on the old terms ; but eventually we were urged to take them back on any terms, but we did not do so. The men were told in the kindest possible way, but very firmly, that if they struck and left their employment they would never be taken back ; and they were not taken back. A number of those men have done no work since.

993. (*Mr. Cohen.*) Is it the general rule, may I ask, that if men strike once they are never taken back ?—I cannot say it is a general rule, because everything must depend upon circumstances ; but in this case the men were told beforehand. We knew, of course, we were in a position to fill their places, and we did fill their places ; and they were told they would never be taken back, and they were not taken back. I mention that case to illustrate my point, of course, with regard to the great hardship it has brought upon the men, who have no legal remedy against expulsion from the society. And I should like to say, incidentally, or rather suggest, that that was not in the ordinary sense of the word a "trade dispute" at all ; there was no dispute whatever with the men.

994. That is a legal question ?—I admit it is a legal question, but I simply suggest, as a matter well worth consideration, whether that is a trade dispute in the ordinary sense of the term. Of course, ever since that date our shops have been non-society shops, that is to say, a man is not asked whether he is a member of a union or not. Some men may be, and I daresay some men are, but none of them are ever asked the question.

995. (*Sir William Lewis.*) And you work piece-work ?—We work piece-work, and always have done ever since. There is just one other point that I might incidentally mention, as showing the hardship which these rules entail upon the men, and that is, the extraordinary system that these societies have of fines, for every conceivable offence. This engineers' society contains a list of seventy-four offences punishable by fines varying from 6d. to £5 (*Vide Appendices, p. 32*) ; the stone-mason's society has a list of eighty-one offences for which fines are inflicted (*Vide Appendices, p. 33*) ; and the iron-founders' society no less than 152 (*Vide Appendices, pp. 34-37*) ; and that seems to me to be very remarkable as coming from the trade unions, who, I believe, were the cause of the Truck Act, 1896, passing, which has practically rendered it impossible for a railway company to inflict a fine at all. I have made one or two notes here of other ways in which the pressure which is brought to bear upon the men who are members operates very considerably to their disadvantage, as, for instance, it will be known to the Commission, of course, that the trade unions invariably resist the formation of provident and pension and other funds by the employers. There was the well-known case of the Great Eastern Railway Company, which I daresay you remember.

996. (*Chairman.*) I do not think we need go on with that branch of the subject, because we are not enquiring as to the question of whether trade unions are good things or not. You are now really getting into the general consideration which might lead to the conclusion that it was much better for a man not to join a trade union at all ; but I do not think that is anything to us ?—I propose then to proceed very briefly with my notes with regard to the South Wales Miners' Federation, which is the other society to which I referred, as their operations very seriously affect the Taff Vale Railway Company.

997. (*Sir William Lewis.*) And all other industries too ?—Yes, I quite agree—all other industries in the district. We being largely a coal carrying railway, anything that stops the coal industry is very injurious to the Taff Vale Railway Company. I am speaking, of course, in the presence of Sir William Lewis, who has very intimate knowledge of all these things, and I am sure he will correct me if I make any mis-statements with regard to them. The colliery workmen, as a rule, belong to the South Wales

Miners' Federation, which is affiliated to the Miners' Federation of Great Britain. I may say that this Miners' Federation was established only about two or three years ago, and it takes the place of an association which carried on its operations in relation to employers, under what was known as the sliding scale, which I think was established in 1875. I have a copy of its rules here. The rule of the South Wales Miners' Federation with regard to strikes is this—it is Rule 8 : "The society will not undertake the responsibility of a strike of any dimensions whatever, nor will they provide or make any arrangements for the financial support of those who may be on strike, unless the matter in dispute has first been legitimately placed before the executive council or conference and thoroughly discussed upon just principles, exceptions to be made in cases of emergencies, such as the employers tendering notices or violating any agreement." This rule does not provide for the contingency of a strike taking place after being prohibited by the executive council or conference if that body has power to prohibit it, which, under another rule, seems to me to be doubtful. Rule 44 says : "No lodge or part thereof" (a lodge means a branch of the association) "shall give notice of a strike before first securing the permission of the monthly meeting. Any number of men coming out on strike without complying with this condition shall forfeit all claims on, or protection from, this Federation." The monthly meeting appears to be a meeting of the district committee, and those two rules seem to conflict ; one says there shall not be a strike until it is placed before the executive council or conference, and the other says no Lodge "shall give notice of a strike before first securing the permission of the monthly meeting." Rule 50 seems to favour the settlement of disputes by conciliation and arbitration. That Rule 50 is this : "Courts of conciliation and arbitration shall be acknowledged by the Federation and recommended in the settlement of all disputes where they can be adopted with justice to all parties concerned." That rule is rather an important one, having regard to the methods which have been adopted by the association or are being adopted up to the present day. From 1875—that was after the great strike of that year, which lasted from the 1st of January to the 1st of June—up to 1902, the relations between the colliery owners and the workmen were governed by the agreement I have already referred to, the sliding scale agreement, under which the wages rose and fell automatically between a fixed minimum and a fixed maximum, according to the fluctuations of the selling price of coal. During the whole period from 1875 to 1902, which would be twenty-seven years, there were, I think, only two general strikes, one in 1893, which lasted two or three weeks, and the great strike in 1898, which lasted for about five months or five and a half months.

998. One was only sectional ; confined to the hauliers ?—But it led to a complete stoppage ; the hauliers by striking could stop any pit ; and the strike of 1898 was a general stoppage of course. As the wages rose and fell automatically with the selling prices of coal, which were ascertained in a particular manner by accountants on behalf of the men and the employers, there appeared to be no room for a strike, or no room for any difficulty at all arising which might lead to a strike. Then the sliding scale agreement, although entered into with the main object of regulating wages, made provision for the discussion and, it was hoped, for the settlement of disputes without resort to strikes. The rule is a very short one, it is this : "Both parties to this agreement pledge their respective constituents to make every effort possible to avoid claims or disputes at the collieries, and that in case of any unavoidable differences the owners and their officers together with their workmen shall endeavour to settle all matters at the collieries, and only in case of failing to effect a settlement shall an appeal be made to the joint committee. It is also hereby agreed that in such cases no notices to terminate contracts shall be given by either employers or workmen before the particular question in dispute shall have been considered by the joint committee and they shall have failed to arrive at an agreement." I said just now that there were two general strikes during those twenty-seven years, one in 1893 and the other in 1898, but there were a continual number of small disputes affecting particular collieries, and that rule was intended to meet those cases ; it was a measure of conciliation in fact.

999. (*Mr. Arthur Cohen.*) What rules were those, may I ask?—That was a clause in the agreement known as the sliding scale agreement.

1000. It was assented to by employers and workmen?—Yes, it was a clause in the agreement. That great strike in 1898 which I have just referred to, entailed upon my company a loss of revenue of £194,679. It lasted for twenty-two weeks. That clause in that agreement it will perhaps be noticed does not provide any machinery for settling a dispute at all; it provides for disputes being brought before the joint committee and being discussed, and a large number of these matters were brought before the joint committee from time to time and discussed, but very few of them indeed were ever settled; generally they resulted in a strike—I think always where the men themselves did not give way on the point; so that there were constantly small strikes arising. Now the sliding scale agreement was terminated in 1902 and has been replaced by a new agreement dated the 31st of March, 1903, the object of which was declared to be to establish a Board of Conciliation; the words are: "That a Board of Arbitration shall be established to determine the general rate of wages to be paid to the workmen and to deal with disputes at the various collieries of the owners subject to the conditions hereinafter mentioned." (*Copies of the sliding scale agreements were handed in. Vide Appendices, pp. 38-42.*) The agreement is for a fixed period expiring on the 31st of December, 1905. The Board of Conciliation consists of twenty-four representatives of the employers and twenty-four representatives of the men with a chairman from outside who is to determine questions of wages only.

1001. (*Sir William Lewis.*) That Chairman is Sir Michael Hicks-Beach?—Lord Peel was the first chairman, and Sir Michael Hicks-Beach has just been appointed to occupy the position. Clause 5 of this new agreement is intended to provide for the settlement of disputes, and is practically identical in effect with Clause 17 of the sliding scale agreement which I have read, and therefore I need not read it again; but this Board of Conciliation is not registered and no provision is made for its being registered under the Act of 1896; and no provision is made for the final settlement of disputes except as regards the scale of wages. The Board of Conciliation has failed in most instances, as the former one did, to settle the questions in dispute, and strikes, as a general rule, have resulted. The Board of Trade Reports on strikes and lock-outs from 1894 to 1902 inclusive give the number of strikes and lock-outs at South Wales collieries as follows:—In 1894 there were forty-three; in 1895, twenty-seven; in 1896, thirty-one; in 1897, twenty-two; in 1898, that is the year of the general strike, there were eighteen; in 1899, there were twenty-seven; in 1900, fifty-two; in 1901, fourteen; and in 1902, thirty-two. Of course, the majority of those strikes affected injuriously the Taff Vale Company, because the closing of a pit always has that effect in the district. I have put together here, compiled from the Board of Trade returns, a statement for these years showing the number of strikes in South Wales, the number of men affected directly and indirectly, the aggregate duration of the stoppages in days, and the aggregate number of days' work lost (*handing in the same. Vide Appendices, p. 42.*) The only observation I wish to make upon this statement is as to the aggregate number of days work lost. Taking the year 1898, which is the year of the great strike, the average number of days work lost was 15,618,712 days; and I think I may take it that that represents a loss in the output of an equal number of tons of coal. I also hand in a statement showing the output of coal and the number of persons employed at the collieries in the United Kingdom for the years 1897 to 1903, showing the tons raised per man per annum, and showing South Wales separately from the United Kingdom (*handing in the same. This statement was subsequently withdrawn and a more detailed one handed in instead. Vide Question 1019 and Appendices, pp. 46 and 47.*) There is just one figure that I want to refer to. In 1899 the total number of tons raised per man per annum in the United Kingdom was 384, spread only over the underground men. If you make the calculations upon the total number of men employed on the surface and underground, the output

was 307 tons. In 1903, that output had fallen to 340 tons and 273 tons per man respectively. In South Wales for the same year, 1899, the output per man per annum calculated on the number of underground men, was 356 as compared with 384 in the United Kingdom, and 300 based on the number of surface men and underground men instead of 307. In 1903 those figures had fallen to 311 as against 356, and 264 as against 300.

1002. (*Sir Godfrey Lushington.*) How do you connect that with the union, or show that it is a case of cause and effect?—For the simple reason that we know the men do not turn out as much as they used to do. They turn out a certain number of trams (*Sir William Lewis will correct me if I am wrong*), and after they have turned out that given number of trams they do no more work—they are not allowed to do any more work.

1003. (*Sir William Lewis.*) That is to say, you suggest that is done under either a rule or a direction or a resolution of the trade union?—Yes, one or the other—it is done. You cannot talk to a colliery proprietor in South Wales who will not tell you the same thing—that the output is nothing like what it was; and these figures are official, that is, they are compiled from official figures, and they show that to be the case.

1004. (*Chairman.*) You have produced a table which shows that the output as a matter of fact has diminished?—Yes.

1005. First of all, is the diminished output due to the fact that the men do not work so much time as they might work?—It is not so much a question of time; they do not do the work as well; they do not work as hard during the time that they are down in the pit as they formerly did.

1006. (*Sir William Lewis.*) But they do restrict themselves; that is what you suggest?—That is what I suggest.

1007. (*Chairman.*) Then in your opinion is the restriction which they impose upon themselves of output due to the action of the unions?—I have no doubt about it.

1008. But when you say you have no doubt about it, can you prove it. Are there any rules of the union or commands of the union which have been promulgated to that effect?—I am not aware of any rules. I get my information from the colliery proprietors themselves. It is the universal complaint.

1009. (*Sir William Lewis.*) But with regard to the restriction which was referred to in the stop-day action, that was in compliance with a distinct resolution of the union?—Yes, it was; that was an actual stopping for days together with the express purpose of restricting the output; and similarly the old arrangement which had existed for some years of stopping the first Monday in each month, called Mabon's Day, was for the same object. That is now put an end to. It is called Mabon's Day after Mr. Abraham, M.P., whose Welsh name is Mabon. That day has now ceased; but we know it has been publicly declared that the object of the stop days was to restrict the output.

1010. Mabon's Day was one of the subjects in dispute which led to the strike of 1898, and which, at the final agreement with the workmen, the men agreed to abandon?—Yes. I also hand in a statement containing a return of the strikes in the South Wales and Monmouthshire coalfield entered upon with the object of compelling non-union men to join the Miners' Union, from 1894 to 1902 inclusive, compiled from the Board of Trade Returns (*handing in the same. Vide Appendices, pp. 43 and 44.*) In 1894 there were none; in 1895, one; in 1896, two; in 1897, one; in 1898, one; in 1899, two; in 1900, nine; in 1901, four; and in 1902, twelve. I have all the details here, and I should like to draw attention to the fact that the number in the year 1902 was far greater than in any other year, and that is since the men have come under the influence of the Miners' Federation.

1011. But numbers there hardly indicate a fair comparison, because you may have twelve in one year, which might apply to a small number of men, as against two in another year applying to thousands of men, or vice versa; and it is possible that we may have to ask, if that point is pursued, as to the details of the different strikes?

Mr. A. Beasley.

1 June 1904.

Mr. A. Beasley. —I have the details here. I have summarised this statement showing the aggregate number of days the collieries were idle in each year, which I think will give you what you want.

1 June 1904.

1012. I am only suggesting that you can hardly compare them by means of the bald information of numbers ?—Then perhaps this will give you an idea of what it means : In 1894 I said there were none. In 1895 the aggregate number of days' work lost by the stoppages of the pit against the non-unionists, for the purpose of squeezing out the non-unionists, was 2,779 ; in 1896, 7,270 ; in 1897, 11,200 ; in 1898, 900 ; in 1899, 1,305 ; in 1900, 55,058 ; in 1901, 42,135 ; and in 1902, 147,547. I think that meets the point.

1013. That is what I wanted ?—As illustrating the methods pursued by the union which lead up to a strike in most cases, I have here a circular notice, issued by the Committee of the Lewis Merthyr Lodge, which appears to be one of the preliminary steps leading up to a strike. "Lewis Merthyr Lodge." This is undated. "Notice ! A special examination of cards will take place during the week commencing May 9th. All members are expected to clear up on Saturday, May 7th." (those dates tell me it is last month) "when clearance cards will be issued to all that are clear on the books. As a result of the last show cards, we discovered that there were a large number of non-unionists and also several members in arrears working at these collieries. The whole of these faithfully promised to join on the first opportunity afforded them, but they have not yet fulfilled that promise, hence it has become necessary to again get an examination, in order to see if these persons are still working here ; if so, it will become the duty of the lodge to seriously consider what steps shall be taken to compel these persons to join the ranks. It has also been brought to our notice, that some unscrupulous members have allowed non-unionists to wear their clearance badge in order to deceive the persons examining the cards ; therefore the Committee has decided that every member must bring his contribution card with him during the week. The secretaries will be in attendance at the lodge room, Vaughan's Arms, Hafod, on Monday evening to receive the contributions of those members travelling to work by train. By order of the Committee." That is printed in English and Welsh. And there is one other document which perhaps it would be convenient I should produce now, which again is a very striking illustration of the methods taken to compel men to join the union. This is a hand bill which was largely circulated in the Ogmores and Gilfach districts of the Miners' Federation, which you will find on the map lying to the west, where the lines are coloured yellow ; those are the Great Western lines : "Ogmores

and Gilfach District of the Miners' Federation. To Householders who provide accommodation (lodgings, etc.) to miners and other colliery workmen. It being well known that a number of unprincipled workmen, who are willing to appropriate all the benefits obtained through the Federation, are constantly trying to evade their responsibility in supporting the same, we appeal to you to assist us in preventing this imposition by *Refusing to Accommodate* (Board or Lodge) any persons who cannot produce the Federation Credentials, or, failing these, a note from one of the local Lodge Secretaries. Your co-operation in this matter will tend to prevent friction, and also imposition upon the Federation, which has so greatly enhanced the prosperity of the district."

1014. (Mr. Cohen.) Who is that published by ?—There is no name to it at all.

1015. (Sir William Lewis.) That is distributed right through the district ?—That is distributed right through the district ; and that is quite in accordance with our own experience. After our strike of 1900 we could not get lodgings for any men who came to us during the strike. To Treherbert and Ferndale particularly, which you will find at the top of the map, and which are the farthest from Cardiff, it is necessary to send up men to live there permanently, or go there one day, work up the train, and come back the next day ; and although the company have a number of houses at both these places inhabited by their own servants, it was absolutely impossible for the men to get lodgings, either with our own servants or with any other people in the town. Consequently we had to fit up a house and put in caretakers for the purpose of accommodating these men who could not get lodgings elsewhere.

1016. (Mr. Cohen.) Why could they not get lodgings elsewhere ?—Because the people refused to take them in on account of their being blacklegs.

1017. Why did they refuse ?—The reason was, of course, because they wanted to get rid of the blacklegs. It was part of the system of getting rid of men who came to us during the strike.

1018. Why was that wrong ?—Well, I should consider it very wrong from our point of view. Whether it was wrong from their point of view is another question. I am speaking now of the fact that these men could not get accommodation even in our own houses, and we were obliged to give notice to our men who lived in our houses to quit their houses before we could get that stopped. The instant we provided accommodation ourselves there was no further difficulty in the men getting lodgings, and we have recently closed the houses we provided because the men preferred to go into the lodgings which, now, they can get freely.

ELEVENTH DAY.

Wednesday, 22nd June, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.ARTHUR COHEN, Esq., K.C.
SIDNEY WEBB, Esq., LL.B., L.C.C.HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. AMMON BEASLEY recalled and further examined.

1019. (*Chairman.*) Had you gone as far as you wished in giving the statistics about trades unions?—There are one or two figures I should like to add if you will allow me, but would you permit me, as I was referring on the last occasion to the question of fines and also to the question of the hardship which I considered was entailed upon the members of the trade union by their inability to bring and maintain actions against the union, to call your attention to a case which is reported in this morning's *Times*—you may have seen it, sir, it is the case of *Mullet v. The United French Polishers' (London) Society*. The report is brief, and if you will permit me I will read it: "The plaintiffs were members of the United French Polishers' London Society, a society registered under the Friendly Societies Acts and having its headquarters at 34, Gray's Inn Road. Rule 1 of the rules of the society, which dealt with the constitution and objects of the society, stated that the society was established (among other purposes) for the collection and circulation of information and trade matters generally, and to offer all legitimate resistance to encroachments upon the work and wages of its members, and for their legal protection when subject to unjust treatment on the part of employers, and for the establishment of funds for the support of members who were unemployed or in dispute. Rule 3, which related to the constitution and powers of the executive committee, provided that the executive committee should watch over all matters in the interest of the society or trade unionism generally, and should take such steps as they deemed necessarily conducive to the welfare of the society or the trade union movement. This action was brought for an injunction to restrain the defendant society from levying certain fines which had been imposed by the executive committee upon the plaintiffs in the following circumstances: In March, 1903, all the plaintiffs were working for a French polisher named Simeon Emanuel in Camden Town. It was then discovered by the defendant society that another workman named Lanning, who was not a member of the society, was working for the same employer, and accordingly Rudd, the secretary of the society, was sent to Emanuel to expostulate, and he saw one Foley, Emanuel's foreman, about the matter. Foley explained that Lanning was nominated for membership of another trade union society and that his election would take place on the following Monday. Lanning, however, was not elected. Notwithstanding his non-election, the plaintiffs wrote a letter to their employer signifying their willingness to work with Lanning, and in spite of Rudd's remonstrances, they announced their intention of sticking to Lanning. Eventually the executive committee held a meeting, which the plaintiffs attended. The plaintiffs subsequently retired at the request of the committee, and the committee decided to impose a fine of 15s. on each of the plaintiffs. The plaintiffs complained that the fine was *ultra vires* and illegal, and also that it was unjust and oppressive, inasmuch as it was not owing to any misconduct of the plaintiffs. The defendant society pleaded that the executive committee were acting within the authority of Rule 3, and further, that under Section 4 of the Trade Union Act 1871, the court had no jurisdiction to entertain the plaintiffs' claim. Mr. Cyril Dodd, K.C., and Mr. Bassett Hopkins appeared for the plaintiffs;

and Mr. Mulligan, K.C., and Mr. Martin O'Connor for the defendant society. Mr. Justice Kekewich was of opinion that the action was not maintainable. The plaintiffs complained that their fellow workman had been victimised; they complained of injustice to themselves; they wished to stand by their fellow workman and to assert their freedom. If they wished to assert their freedom they had only to refuse to submit to be bound by the rules of this trade union. But having chosen to submit they must be bound. All that the Legislature said was that the court would not enforce the rules of these societies. The plaintiffs alleged that they had been improperly fined, and that the executive committee proposed to visit them with certain penalties and disqualifications for non-payment of the fine; and they asked the Court to say that, notwithstanding the non-payment of the fine, they should be free from these penalties and disqualifications. That was asking that the rules of the society should be construed and enforced for their benefit; that they should be restored to complete membership without paying the fine. That was relief which the Legislature had thought good to say the Court should have no jurisdiction to grant. This case was covered by *Rigby v. Connel* (14 Chancery Division, 482), and *Chamberlain's Wharf (Limited) v. Smith* (1900, 2 Chancery, 605). *Houden v. Yorkshire Miners' Association* (1903, 1 K.B., 308) was a case of an entirely different character. There the society was proposing to divert funds which were contributed for a certain purpose to other purposes not authorised by the rules. That was a case of the misapplication of the funds of the society, and was quite a different case from an action by a member to enforce the rules for his benefit. That case stood sound by itself and was in no way inconsistent with the other two cases. This action failed because it was within the statutory prohibition of the Act of Parliament. There would be judgment for the defendant society with costs." At the last sitting I put in a statement (*Vide Question 1001*) which I had had prepared showing the output per man *per annum* in the South Wales Coalfield and the United Kingdom. I have since been furnished by the South Wales Coal Owners' Association with a somewhat more complete statement, and I would ask leave to put that in in place of the other one; it is more complete and shows the number of men employed year by year and gives various other information which was not given in the statement which I put in before. (*The Statement was handed in. Vide Appendices, pp. 46 and 47.*)

1020. (*Sir William Lewis.*) Was that on the subject of restriction?—That was on the subject of restriction; you will remember I compared the figures of 1899 with 1903, showing that not only in South Wales but in the United Kingdom there was a very considerable falling off, but that the output in South Wales was much less than in the United Kingdom at large.

1021. (*Sir Godfrey Lushington.*) May I ask whether the coal in South Wales can be got as easily as the coal in other parts of the country?—Certainly, for anything I know to the contrary. I never heard that suggested as a reason why the output should be less. You may remember, sir, when I referred to that phase of the question before, you asked me whether I was in a position to prove

Mr. A.
Beasley.

22 June 1904.

Mr. A.
Beasley.

22 June 1904.

that this reduced output was due to any order or rule of the men's union. Then I was not in a position to say anything, except what was of a general character.

1022. (*Chairman.*) The Secretary points out to me that on the last day, speaking of the output, you said a good deal, and I see it is all summed up in a question I asked you at the end : (Q) 1007 : " Then, in your opinion, is the restriction which they impose upon themselves of output due to the action of the unions ? (A.) I have no doubt about it." Can you carry the matter further than that ? —I have got several letters here from colliery managers bearing upon this point ; they do not all assign the same reason, but as the question has been raised I might be permitted to read these letters. (*The letters were ruled to be inadmissible as evidence.*) There is one case I should like particularly to refer to, because involved in the case is a very serious strike, which affected us very materially indeed.

1023. (*Sir William Lewis.*) When you say " us " you mean the Taff Vale Railway Company ?—Yes.

1024. (*Chairman.*) If you wish to speak of the incidents of any case that were within your own knowledge, that, of course, is a perfectly different thing. Will you state the particular instance you refer to ?—This paper I hold in my hand partly consists of statements, partly of letters, and partly of the minutes of meetings that took place with regard to a strike at the Hetty Pit of the Great Western Colliery Company. The Taff Vale Company are interested in that matter in two ways. First, because by that strike the traffic was very seriously affected, and next, because by the closing of that Hetty Pit the Taff Vale Railway Company were unable to obtain from the Great Western Colliery Company, their contractors, a large part of the coal which the Great Western Colliery Company had contracted to supply, and we had, therefore, to get our supplies of coal from our reserve, which we always like to keep, and we were put to very serious cost and inconvenience in consequence. The facts as to this strike will appear from this statement ; it is very brief, or I would not trouble you with it. It is a memorandum, the date of which is 11th July, 1903, while the strike was proceeding : " The Company " (that is, the Great Western Colliery Company) " commenced opening out the 2 feet 9 inches seam towards the end of 1898 " (that was a new seam in this colliery.) " The seam was then very stiff and was at first wet. Datal " (that is, daily) " wages were paid to the few colliers engaged " (that means they were not paid by the ton, but by daily wages, because they would have to do a great deal of opening out and such like, not the actual production of the coal upon which it would ordinarily be fair to pay them, so much a ton). " The facility for coal getting improved, and in December of 1898 the colliers were loading two trams from each working place per shift (two men), but these were very heavy trams, carrying thirty-five cwt. to forty cwt. each. This continued for twelve months. In January, 1899, the men still continued loading two trams from each place, and the management, to induce better work, agreed to increase the datal wage if an additional tram per place was loaded. Since that time three trams per place (two men) have been sent out, and notwithstanding a complete change in the working of the seam, as well as a change in the weight of the coal in each tram, the same continues. The coal is now easy to get, and the trams are only loaded to twenty-five or thirty cwt., and the workmen refuse to do more. For the fortnight ending November 29th, 1902, the Company kept a complete record of the time each collier was actually working each shift, with the following results :—Average time per shift colliers should have been in the face, after allowing ample time for travelling to and from the shaft, eight hours, twenty-seven-and-a-half minutes. Actual average time per shift actually worked by the colliers, three hours eleven-and-a-half minutes. The minimum in the latter case is two hours, fifty-six minutes, and the maximum is three hours, forty minutes, showing that any two men can in this seam load three trams of coal in three hours, forty minutes. The owners have all along contended that six trams from each place was a reasonable average production, some would do more and some would do rather less. This restriction of production by the workmen in this particular seam (two feet nine inches) renders it unworkable to advantage by the Company." I may say, sir, that in consequence of their inability to get the men to turn out more coal, the colliery was closed after

notices given in November, 1902. In January, 1903, immediately after the notices had expired, negotiations took place between the colliery officials and representatives of the union, and it was agreed that the pit should be re-opened, and should be open for nine weeks, during which time it was anticipated that some settlement would be arrived at. The owners of the colliery notwithstanding that they were losing heavily by keeping the pit open agreed to re-open the pit ; and it was kept open for this period of nine weeks, and during that time negotiations took place which resulted in an agreement between the representatives of the men and the officials of the colliery. The arrangement, under which the pit was to be kept open for nine weeks, contained this clause : " The Hetty Pit shall be restarted at once on the following conditions : If it is proved that the system of restricting trams exists in the Hetty Pit, the representatives of the Federation agree that they will use their utmost influence and endeavours to get the Great Western workmen to abandon it." I say terms were agreed, but when submitted to the men they refused to ratify those terms, and as a matter of fact they refused to go to work ; the pit was closed until April of this year, which is thirteen months altogether, when an agreement was finally entered into on the 19th April last, which contains this clause : " The company undertake " (this agreement, I may say, is signed by the agent of the colliery and by fourteen men representing the workmen)—

1025. (*Mr. Sidney Webb.*) And by the Union ?—There is one who signs himself " Miners' Agent," and therefore he is the representative of the Union.

1026. (*Sir William Lewis.*) That would be the Federation ?—Yes, he signs it first. " The Company undertake to divide the trams between the several districts in the respective pits as evenly as is practicable, and such trams shall then be divided between the persons working in the several working places in accordance with the practice prevailing in the other collieries in the Rhondda Valley, and so that an equal opportunity shall be given to each workman in the district to have the same number of trams, but if any workman is not ready to be cleared when his turn comes round the trams shall be offered in rotation to the workmen in the adjoining working places, and a haulier shall be appointed to keep the turn. Subject to the foregoing clause the workmen on their part undertake to allow each man to fill without restriction according to his capacity and the condition of his working place." On those terms the colliery has been reopened and is now at work.

1027. (*Mr. Cohen.*) Then what complaint is there against the trade union ? I thought they did not sanction the strike originally ; they rather interfered in order to bring about an agreement ?—The first phase—I am afraid I did not make it quite clear—was the stoppage of the colliery on account of the restriction of output.

1028. Not by the trade union, not at the orders of the trade union, but on the contrary ?—By the men, certainly ; but if the trade union were in a position to make that agreement which was made on the 19th April last, surely they were in a position to control the men.

1029. (*Sir William Lewis.*) The question is, in declining to do more than a certain amount of work as indicated there, were they doing so as part of the rules of the Federation or not ? Were they acting on their own initiative, or were they acting as part of the general instructions from the Federation ?—That, of course, I could not say ; I am only able to speak with regard to the results, but there is one fact which is within my own knowledge which has a bearing upon the question ; it is referred to in one of these letters, but I can, of course, to an extent, corroborate it myself, and therefore possibly I might be allowed to read that letter—that there is a system of compelling individual men to reduce their output by some process of intimidation. You cannot go through a colliery district without seeing names and addresses and hieroglyphics of various kinds chalked on the walls. That is explained by the writer of this letter if I may read it without mentioning his name ; it says : " If individuals elect to produce on an average a little extra quantity they are soon reminded of it by having their names or marks by which they are known chalked all over the neighbourhood where they work. This is one way by which the general attention of the workmen is drawn

to such cases, but there are numerous others. The public see these chalk marks as well as the workmen."

1030. (*Mr. Cohen.*) Is that alleged to be done by orders of the trade union?—I cannot take it so far as that because I do not know.

1031. (*Chairman.*) I would like to go back again to what I said before: Can you carry it any further than you have already been allowed to carry it on the last day in questions 1007 and 1008: "Then in your opinion is the restriction which they impose upon themselves of output due to the action of the unions? (a) I have no doubt about it. (g) But when you say you have no doubt about it, can you prove it? Are there any rules of the union or commands of the union which have been promulgated to that effect? (a) I am not aware of any rules. I get my information from the colliery proprietors themselves. It is the universal complaint?"—I cannot take it further than that; I cannot take it further than it is taken by the statement I have given you here.

1032. Holding the opinion that you have expressed, that the restriction of output is due to the action of the unions, what suggestion do you make? Do you suggest that the law ought to be altered in any way?—I question whether the law on that particular point could be altered; I simply refer to it as one of the methods of trades unions which may, and inevitably will, lead to trouble later on, and that in allowing trade unions to have the free hand they are seeking to have, methods of that kind must be taken into account. You may remember, sir, that at the last hearing I put in some statements compiled from the Board of Trade returns of the number of strikes in the South Wales district and particularly of the strikes which were stated to have been for the purpose of squeezing out the non-unionist. Since the last sitting I have been furnished by the South Wales Coal Owners' Association with a list of the strikes in the year 1903. The Board of Trade return for 1903 has not yet been published and therefore I could not give the figures, but I have them from what we look upon as the official body in South Wales, and the return I have here shows that during the year 1903 there were forty-one strikes in the South Wales district covered by this Association (it does not include the whole of South Wales), of which thirty-one had reference to wages and eleven were for the purpose of squeezing out the non-unionist. With regard to the number which I referred to in 1902, that is practically the same as regards that particular class of strikes, but on the whole there were nine more strikes in 1903 than in 1902. I have already given you particulars of one of those strikes, that is the one at the Hetty Pit of the Great Western Colliery; that is one of those referred to in this statement, and the number of men interested in that strike were 800 and the duration of the stoppage altogether was 335 days.

1033. (*Mr. Cohen.*) That is the strike you mentioned before?—That is the one I mentioned before. There was one other I should like to refer to because here the action of the trade union is quite clear. That is with reference to a strike at the Tower and Aberdare Merthyr collieries at Aberdare, which is on the Taff Vale line, and we carry the output, or a large part of the output, of these collieries. On the 1st September, 1903, the men—I believe there are about 700 altogether,—gave a month's notice to cease work unless thirty-five men who were at work in the pits and were not members of the Miners' Federation became members. Towards the end of September (I think really on the 29th—at all events, it was when the notices were about to expire) a Mr. Stanton, the miners' agent of the Federation in the district, waited on the colliery manager and suggested to him that he should advance the money to these thirty-five men—they had got the men in the meantime to say they would join, but I suppose they had not the means of paying their subscriptions, and the miners' agent came to the colliery manager and suggested that he should advance the money for the subscriptions. That was refused, and the men brought out their tools on the expiration of their notices on the 30th September. Between the 30th September and the 6th October the non-unionists joined the union, having paid their subscriptions and become members, and on that date a deputation of the workmen lately employed at the colliery saw the colliery managers and stated that they were willing to re-start,

when they were told that notice had been given to the under officials to terminate the contracts and that it was the intention to close the colliery unless the owner was compensated for the damage that he had sustained by the stoppage of the pit, that is, I suppose, putting the working places in order and otherwise. On the 15th October a meeting called by the Federation was held at Hirwain in the neighbourhood of the pit, at which a resolution was passed regretting the action of the colliery managers in preventing the men from returning to work when there was no dispute between them and the Marquis of Bute, who was the owner of the colliery, and declaring that any settlement or arrangement made must be through the medium of the miners' agent. There was some feeling, I believe, and it was no doubt well founded. This resolution was sent to Lord Bute's representative, who, on the 20th October, replied to this effect:—"I hardly need point out to you that there is no privity whatever between the owners of these collieries and the Federation, the contracts hitherto having been personal without any distinction as to whether the workmen were members of any Federation or otherwise, and I see no reason for gratifying the desire of your Federation to discuss matters simply because your members managed to coerce certain workmen into their union who were formerly in the employ of the owners of the Tower and Aberdare Merthyr Collieries, but terminated the contracts by their own action on the 30th September last." On the 5th November a meeting of the Federation was held at which Mr. Brace, the Vice-President of the Federation, said: "It was their duty to fight for official recognition, and the Federation, if it meant a continuation of the struggle, would support the men;" and a resolution was passed: "That a settlement of the dispute be vested in the hands of the deputation appointed by the Executive Council." On the 24th December a dozen workmen from the collieries waited upon the agent and expressed their anxiety to re-open negotiations for the re-starting of the colliery, and they were told they could resume work if they put their working places in order at their own expense. This last application was made by the men themselves, who were evidently desirous of taking the negotiations out of the hands of the Federation, and coming to an arrangement on their own account.

1034. How many men were there who proposed that?—A dozen. Of course, whether they were deputed by others or not, I do not know, but presumably they were. This was reported in the local newspapers, and on the following day the Chairman of the Aberdare District of the Federation called a meeting, when the following resolution was passed: "That the workmen of the Hirwain Colliery enter their strongest protest against the action of those unprincipled persons who endeavoured to betray their fellow-workmen in the Hirwain dispute with regard to the alleged settlement, and that we again emphasise our loyalty and fidelity to the Federation policy, having every confidence in our agent and the council at Cardiff, and we adhere to the resolution carried on November 5th, at the Hirwain Public Hall." The next phase in the question was this, that on or about 1st February a deputation of tradesmen of Hirwain (these tradespeople of course being entirely dependent upon the collieries were suffering very much by the collieries being closed) waited upon Lord Bute's representative on behalf of themselves and the inhabitants generally to know whether anything could be done to bring about a resumption of work, and they were told that the terms already offered to the workmen must be adhered to. Then, subsequently, the tradesmen came to an understanding that they would themselves offer to the owner of the colliery that they at their cost would put the working places in order, and they informed Mr. Stanton, the miners' agent, of what they intended to do, when he said that he or some other official of the Miners' Federation would have to accompany any deputation of tradesmen, as the Federation must be recognised in the matter. The tradesmen replied that it was useless to continue the negotiations, and then called a meeting to explain their failure. That meeting was held on the 18th February, but during the proceedings Stanton entered the hall. This meeting, I may tell you, was a meeting of the men formerly employed at these collieries called by the tradesmen to explain their attitude and what they had done or failed to do with the management of the collieries, and

Mr. A. Beasley.
22 June 1904.

Mr. A.
Beasley.

22 June 1904.

the meeting was accordingly held, but during the proceedings Stanton entered the hall and at once ascending the platform told the workmen present, "that they had no right to come together as they were there without his knowledge." Who the conveners of the meeting were he knew not (I am reading from the report in the *Western Mail*), but it was clear that it had been convened for the purpose of inducing the men to return to work. He then called upon those who were prepared to recognise the Federation to leave the hall, and thereupon the men began to go out, only about a dozen remaining. On the 27th February two of the workmen's committee called on the manager of the colliery to ask him to receive a deputation of three committee men and three colliers, the latter to be appointed at a general meeting, with a view to discussing terms for the resumption of work. They were told by the manager that he was willing to see a deputation authorised at a mass meeting, whether such deputation consisted of members of the workmen's committee or not. This appears to have been reported to the Federation, and on the 5th March the *Western Mail* reports a meeting in Cardiff of the South Wales Miners' Federation (I suppose that would be a general meeting; the other meetings being held at Aberdare and Hirwain, no doubt were the local lodges of the association) and they passed this resolution: "That having received the report of the deputation of Hirwain Federation Committee upon several interviews that had taken place with the colliery managers, and also the report of Mr. C. B. Stanton respecting the method of conducting negotiations in future, the council agree that a deputation be appointed by a general meeting of Hirwain workmen to interview the management with the view of arranging for the resumption of work, it being understood that the guarantee given by the deputation of tradesmen and others to Mr. Stanton becomes operative if a settlement is arrived at." A deputation waited upon Lord Bute's representative on the 7th March, and they were informed that owing to the prolonged stoppage and other causes, substantial portions of the workings would have to be abandoned altogether, and that if the collieries were re-started it would be impossible to take on more than 200 men, but that the question should be considered, and the result communicated, which was subsequently done in a letter in which it was pointed out that in view of the abandonment of a portion of the workings, and the expense which the owner had been put to in maintaining the working places in repair, the offer made in December was no longer applicable, and the men were invited to consider in what other form than that suggested they were prepared to compensate the owner for a portion of the losses incurred entirely through their action. A few days subsequently a deputation waited again on the colliery manager, and stated that in view of the instructions given to them by the Federation executive they could not entertain the idea of compensation in any form, and that consequently they were not in a position to make any offer for a resumption of work, based upon compensation in the form of work or otherwise. I believe that last passage had reference to the suggestion that if the men could not pay for putting the working places in order they should go down the pit and put them in order themselves without being paid for it, but that, you see, was not allowed by the Federation, and that came to nothing. At a monthly meeting of the Aberdare Miners' Association held on March 14th, Mr. Stanton stated that he "wished to point out at that meeting that he had all along not been in favour of Hirwain being made the cockpit of South Wales in this matter, as he held they could inflict more severe loss upon the employers elsewhere." Matters went on until May, and on the 7th May the *South Wales Daily News*, another local paper, reports that at a meeting at Hirwain Mr. Watts Morgan, one of the miners' agents of another district, but connected with the same Federation, spoke as follows: "They had a somewhat unpleasant message to bring, but they must speak plainly. The young men must seek work elsewhere. The executive had done all they could before coming to the conclusion that every attempt to re-start the Hirwain collieries must be a failure; but at last they had come to that conclusion, and the responsibility for the failure rested not with the men or the officials of the Federation, but with the employers. He then denounced the non-unionists who had been the cause of the strike, and he told them, in cold blood, that the sooner they left Hirwain the better. If he was one of them he would not like to be in their

shoes, and the only thing they could do at present was to find work elsewhere, where they would not be looked upon, as they were at Hirwain, as marked men." Then the *Western Mail* on May 26th, in a report of the monthly meeting of the Aberdare District of Miners on the previous day, said, "With regard to the Hirwain stoppage, the district executive reported that the supplementary levy of 4s. per man and 6d. per child had been withheld from those workmen whose non-membership of the Federation brought about the tendering of the notices."

1035. (Sir Godfrey Lushington.) Do I understand that the men had joined the union?—Yes.

1036. And I suppose they were paying their subscriptions as from that date, and yet when the time came the strike fund was denied to them?—Yes. You see, sir, the strike took place for the purpose of forcing thirty-five men into the union; they forced them into the union, and they then applied for the pits to be re-opened, on the ground that there was no dispute between the men and the employer. All attempts to re-open the pit failed, and when they realised that the pits would not be re-opened, then the non-unionists, the thirty-five men who were forced into the union, were denounced as being the cause of the strike, and later on were deprived, according to the newspaper report, of the amount which had been agreed to be paid to them as men out of work.

1037. (Sir William Lewis.) And as members of the union?—And as members of the union. I was just going to finish my statement. I was reading from a local paper a report of a meeting on the 13th June, which was addressed by the same Mr. Stanton, and the report says: "At the request of Mr. Stanton a resolution protesting against the action of certain blacklegs was passed. Mr. Stanton urged the men not to drink with them, not to speak to them, and to avoid them as men stricken with leprosy. They could do that even under the Taff Vale Judgment, although unfortunately they could not advise them to leave work." I hope it will be relevant to this particular part of the question if I read two brief extracts from articles written by Mr. Brace, who is the Vice-President of the South Wales Miners' Federation, in which he justifies these measures—striking for the purpose of forcing non-unionists to join the union. He contributes a weekly article to the *Western Mail*, and I have two of them here. One is dated 8th July last year, and it is headed: "The Non-Unionist Trouble." "I suppose that so long as human nature is what it is there will be found men who desire to get something for nothing. Were it not for this there would be no trouble over non-union men, for no one will pretend to argue in these days that it is not materially to the advantage of the workers to have a strong organisation to protect their interests, and as all must equally benefit then all must accept their share of the responsibility. The South Wales Miners' Federation have had great trouble over this question, especially with some surface workers, and, as a consequence, a little unhappiness has been caused between themselves and kindred societies. In the process of bringing all the workers in and about the collieries into the union some of these men who would like to get all the advantages of the union without having to tax themselves towards its support have, when no alternative has been left, connected themselves with the society specially interested in the craft they may be engaged at rather than join the Miners' Federation, who have made them trades unionists against their desire. The chief reason for them taking this step is that they may say that they were not pressed into the union. Having joined some other society, they then claim that the Miners' Federation had no right to expect them to join their organisation. But the members of the Miners' Federation say that, as they have had all the trouble, expense, and annoyance of teaching them their duty to themselves and their fellow workers, whatever else they may do they must be members of the Miners' Federation. If they are members of the Engineer's, Boilermakers', or any other society, and are employed about the collieries at their own trade, no one expects them to also be members of the Miners' Federation. But if they have not joined their own trades union before the miners' society take them in hand, or if they are employed at ordinary pit work, then they are expected, regardless as to whether they belong to any other society or not, to become members with the miners. This proposition seems to me

to be an eminently reasonable one, fairly meeting the requirements of all parties concerned. As Lord Justice Vaughan Williams gave expression to the opinion that a strong executive trades union council was an advantage not only to the workmen, but to the employers and general public, and as a strong executive council is only possible when it represents the whole of the workmen in the industry it speaks for, then it follows that it is right and proper that no workman can with safety be permitted to be a non-unionist." In a further letter, a much shorter one, he says: "A combination of capitalists would not be condemned if it used its power to make an outside rival capitalist come inside their combination or be crushed out of existence. Such an act would be called an act of protection, because if the outsider were permitted to please himself he might injure the majority, and therefore the majority would be unwise if they did not take steps to protect themselves. To demand the right of individual liberty in that case would lay oneself open to be contemptuously laughed at as a theorist or an unbusinesslike person. But should a combination of labour attempt to use its power to teach a rival workman, who readily accepts all the benefits of the combination, that his place is inside the combination, and that if he is allowed to remain outside he is a danger to the well-being of the majority of his fellows, that act of protection would be called an act of tyranny—trades union tyranny—although the principle is the same." I think I called attention on the last occasion to the fact that these stoppages for the purpose of forcing the non-unionists into the union were not in my judgment trade disputes in the ordinary sense of the word, and I think it is most likely that the Miners' Federation themselves take that view, because, so far as I am in a position to ascertain, none of these stoppages which were entered into for the purpose of forcing the non-unionist into the union were ever brought before the Board of Conciliation. I think I explained what the constitution of that Board of Conciliation was, and that provision was made in the agreement for all disputes to be brought before the Board of Conciliation before any stoppage took place, but in none of these cases was the matter brought before the Board of Conciliation at all.

1038. You mean they were not brought before the Board previous to their action resulting in the stoppage?—They do not appear to have been brought before the Board of Conciliation at all so far as I can ascertain.

1039. (Chairman.) Of course they gave their notices, I take it?—They gave their notices.

1040. (Sir William Lewis.) But in cases where there have been no notices, you can hardly be correctly informed. Where men have stopped collieries without notice surely they must have come before the Board of Conciliation?—I think in all of these cases to which I refer the notices were given.

1041. You are referring to cases where notices have been given?—My point rather was this, that this Commission is dealing with trade disputes, but it is evident that the Miners' Federation in these particular cases did not look upon these stoppages as in any respect trade disputes as between the workmen and the employers because they were not brought before the Board of Conciliation before whom ordinary disputes, such as disputes with regard to wages, are brought.

1042. These disputes increase largely where there is a Board of Conciliation?—That is quite true, as is proved by the figures I have put in, that since the Federation has controlled the workmen in South Wales there has been an increase in the number of strikes.

1043. Have you any statistics on that point?—These are the figures I put in on the last occasion and to-day. My point has rather been that notwithstanding that an agreement exists between the Federation and the colliery owners, which provides for the settlement of disputes by a Board of Conciliation, that Board of Conciliation has not prevented disputes, but disputes have rather increased than otherwise.

1044. (Mr. Cohen.) But they have been settled, have they not, by the Board of Conciliation?—That is my point, that the Board of Conciliation is a practical failure, and the fact that thirty strikes arising out of questions of wages occurred during the year 1903 is a proof that it has so failed, because I have no doubt every one of these thirty cases was brought before the Board of Conciliation,

and that attempts were made to settle, but they resulted in a strike.

1045. (Sir Godfrey Lushington.) What other inference do you draw than that the Board of Conciliation has failed? Do you draw any other inference as to the action of the unions?—Of course I refer to the fact, as a fact, although I assign no reason for the fact, that there are as many strikes now, if not more, than there were before the Federation was established; and the next point is that the Board of Conciliation does not as a rule settle these disputes.

1046. (Mr. Cohen.) That is to say they cannot agree?—They cannot agree.

1047. (Sir William Lewis.) And further have you any illustrations as to when they have agreed, and an arbitration takes place, what is the result?—There was one case which I happen to have here; this is not in the mining industry, but it is a case in South Wales which shows that a trades union is not always in a position to enforce upon its members an award given against them. On the 20th June, only two days ago, the local papers reported that the Monmouthshire tin-platers refused to recognise the award of Sir Kenelm Digby which had just been given. A delegate meeting of the men employed in the Monmouthshire works was held on Saturday at the Tredegar Arms, Newport. The meeting was convened to discuss the recent award of Sir K. Digby on "Canadas" (that is a particular kind of tin plates) and the following resolution was unanimously carried:—"That we, the Monmouthshire tin-platers, strongly resent the award of Sir K. Digby in the recent arbitration case in connection with Canadas; firstly, because they are an order which is practically worked only in Monmouthshire; secondly, because the employers openly declared during the arbitration proceedings that they were not legislating for works which did not come under the purview of the Conciliation Board, and we further protest against the award in so far as it will affect our wages to the extent of 25 per cent. as these orders are being worked for a period of four months continuously without any hope of securing further orders to make up for the loss sustained in working the Canada orders, and we further pledge ourselves to work Canadas only according to the agreement of July 1903, namely, up to and including 29 gauge at 112 lbs. to the box afterwards on surface area." It was stated at the meeting that some of the Monmouthshire employees had asserted that if Sir K. Digby had had the trouble to find the men to work these plates he would never have given such a ridiculous award.

1048. (Mr. Sidney Webb.) What is the suggestion—that the union in that case had done anything wrong?—I think the question was asked by Sir William Lewis rather as an illustration of the fact, which is a fact, that the union is not always in a position to enforce an award.

1049. I do not gather that you suggest that the trade union had refused to abide by the award, or rather that the individual workmen had refused to obey the direction of their union?—As in the case I have referred to of the Hetty Pit; the union comes to an arrangement with the employers and the men refuse to ratify it and remain out for thirteen months because they would not agree to it.

1050. The defect there would seem to be that the union has not sufficient power over its members?—Although it is probably the strongest union in the kingdom.

1051. You feel the union in that case has not sufficient power over its members?—I do not quite put it in that way; I mean, since we are upon the question of arbitration, that there is no power on earth that could enforce an award upon a body of workmen. We are led to understand that we had better deal with the trade union because they have the power to make their members obey the award, but this case, at all events, shows that they have not that power—that even the strongest union has not always that power.

1052. (Mr. Cohen.) That is one case, but the evidence we have had is that generally awards have been complied with, fulfilled and observed, and you do not deny that?—As I said just now, I believe that to be quite true.

1053. (Sir William Lewis.) Will you refer to the Great Western Colliery case where the award was not observed,

Mr. A.
Beasley.

22 June 1904.

Mr. A.
Beasley.
22 June 1904.

because Mr. Cohen is under the impression that this is a single instance?—I did refer to it a minute ago; I gave that as an instance where the trade union, which is probably the strongest or one of the strongest in the kingdom, could not enforce upon its members the agreement which they had entered into.

1054. (Mr. Sidney Webb.) But the trade union, I gather, did endeavour to get the award enforced but failed to induce its members to adhere to it?—I believe that to be quite true.

1055. Therefore, to the extent to which the trade union existed as a force, it was a force on the side of the observance of the award but not a sufficient force?—I quite agree that that would be a fair way of putting it; my only point was that neither a trade union nor anybody else can enforce an award against a large number of men who will not have it. I have given you in the course of this statement, with regard to the strikes at the Hirwain Collieries, an idea of the methods of the union in dealing with non-unionists. Perhaps I might be permitted incidentally to mention what arose after the Taff Vale strike of 1900 in illustration of the way in which the men were treated. We had a great deal of trouble for a long time after the strike; a very large number of complaints were made and very carefully inquired into, and some of them were found to be frivolous and unfounded while others were undoubtedly well founded where men had been threatened and hampered in their work and boycotted generally with a view, no doubt, to getting rid of those men, and the attitude of the Amalgamated Society of Railway Servants towards such men I think may be gathered from what some of the witnesses said before the Royal Commission on Labour of 1894 and what has been said recently. It is very short. This is page 226, paragraph 291(d) of the Labour Report: "The rules of the Amalgamated Society of Railway Servants provide that the executive council must seek to settle disputes by arbitration, and only on the refusal of the railway company to consent to this mode of settlement, may the committee consider the expediency of a withdrawal of labour. None of these societies have rules affecting the attitude of members towards non-unionists, but the secretary of the Irish branch of the Amalgamated Society of Railway Servants stated, that in his opinion the man who participated in the advantages gained by an organisation which he refused to join was a parasite on organised labour, and should be educated into better principles, or induced by any fair means to leave his employment." Observe, sir, that the phrase used there is that "he should be educated into better principles." One of the secretaries of the same society who was largely concerned in the Taff Vale strike, addressing a public meeting at Birmingham in May, 1901, said this, and I quote it from the *Railway Review*, which is the organ of the amalgamated society. "He hoped they would do all they could in Birmingham to keep back blacklegs from South Wales. During the last strike they sent a few men down there, but some of them went back with a mark upon them, and he did not think it was off yet. ('I hope not,' and Cheers.) "If," he added, "the men try to come, argue with them. Do it in your own way, but do it." at which there was loud applause. The same man said during the strike, "he wanted every man off duty the following morning to get up in good time so as to picket at the stations. Let them not come within the limits of the law, but, of course, there were many ways of persuading men (*Laughter and Cheers*)."

1056. What is the name of that speaker?—A man named Holmes; a man who was very largely responsible for the agitation which culminated in the Taff Vale strike of 1900; it was a day or two before the strike that he made that observation.

1057. (Sir William Lewis.) Is that man still alive?—I believe very much so.

1058. (Mr. Cohen.) He has been writing in the papers about some of your statements?—Yes, I was going to refer to that a little later on if I may. That man was very largely responsible for the strike; in point of fact, I think one might almost say it was entirely due to him. This was a speech made by the same man on the day that the strike ended, on the 31st August, 1900 (this is again quoted from a local newspaper).

1059. (Sir William Lewis.) Was this after the settlement?—When they were announcing to the men the terms of the settlement which had just then been arrived at.

1060. (Mr. Cohen.) Who is this man?—Mr. Holmes is one of the organising secretaries of the Amalgamated Society of Railway Servants, and this is his speech: "His advice to the blacklegs would be not to wait until the company got rid of them but to get rid of themselves as quickly as they could. (*Applause*.) The men should treat them as lepers and nothing else. He would advise the men not only not to speak to these strangers but not to handle anything with them for fear of contamination. If after the month had expired these men had not cleared out, this dispute would assume a much more serious aspect than it had hitherto done."

1061. (Mr. Sidney Webb.) May I ask if the men cleared out in any number?—Well, sir, a certain number of men came and took service with the company during the strike, about 400 altogether; that was all we had accommodation for; we fitted up barracks and furnished them with bedding and all necessaries. Perhaps I had better say this first: 1,200 men went on strike; we had applications from men who were anxious to come into the service, the great majority of them men with railway experience, to the number of 5,000. We provisionally engaged more than 2,000, but as we only had sleeping accommodation for 400, we could not take more than 400 at one time, and these men who came naturally had "to learn the road" so that would take a few days. We had, of course, to teach them the road under very difficult circumstances, and it thus happened that we only had about 400 men. Of those some naturally were found to be unsuitable and some did not care to stay; they would rather take a small gratuity and their expenses than remain; but altogether there were about 190, I think, who were found suitable and who were willing to remain, and the directors pledged themselves that all those men who conducted themselves properly and who were willing to remain, should be retained in the employ, and it was of those men that Mr. Holmes was speaking in the speech to which I have now referred.

1062. But my question merely was as to whether any large proportion of that 190 had as a matter of fact removed from the district?—A good many of them have by this time. I cannot tell you exactly how many of the men we have in our employ, but it is unnecessary for me to say that the pledge that the directors gave, that they would retain in the service all men who came during that time who conducted themselves properly and were anxious to remain, has been kept.

1063. But the point of my inquiry was whether Mr. Holmes' bark had not proved a great deal worse than the actual bite of the railway men, and whether as matter of fact the men whom you took permanently in your service have not continued living and working in your service since that day?—I should be very glad indeed if I could bring myself to think so. Let me give you an illustration. I have no doubt that this advice given by Mr. Holmes has been followed, because we have had complaints from time to time—not so many now as immediately after the strike—that a good many men were boycotted, and some of them even were maltreated and a good many were "sent to Coventry" altogether; it was made very uncomfortable for some of the men and some of them did go—there is no doubt about that.

1064. (Sir William Lewis.) You had to prosecute some, had you not?—Yes, that was in the early days. So recently as last March one of the imported men who came during the strike, a driver, found this paper (*exhibiting a sheet of paper with the word "Blackleg" printed in large characters upon it*) nailed on a telegraph post within a few feet of his front door, which shows that the feeling against these men still exists. You referred just now, sir, to some criticism of the figures I gave as regards the number of members of the Amalgamated Society by Mr. Bell and others who disputed the accuracy of my figures. I need hardly say that the figures I gave you were absolutely accurate. But I think I gave the Society a little more credit in its representative capacity than I might have done, because then I had overlooked the fact that by one of the rules of the Society, Rule 10, Sub-Rule (6), members leaving the railway service may still remain

members of the union, and I know of my own knowledge that men who have been in the service of the Taff Vale Company are still members of the Union, and there must be a very considerable number of members of the union who are not in any way now connected with the railway service. Therefore any calculation of the percentage of members to members of the railway service would be to that extent fallacious. You will remember I gave the last Board of Trade Return in 1901 as 575,000; on looking at the previous Return in 1898 I find the number was 534,141, showing that there was an increase of 41,000 between 1898 and 1901, or at the rate of about 14,000 a year, while the membership of the Society was going down during that period. That the Society is admittedly not a representative body I think will be shown by the speech which was made by Mr. Bell, M.P., Secretary, in October, 1903, at a meeting of the Railwaymen's Congress, held in that month. A discussion took place with regard to the introduction of the Bill making an eight-hour day throughout the railway service compulsory. I shall have occasion, with your permission, sir, to refer to the question of hours a little later on, as one of the matters most likely to lead to trouble in the railway world, but I refer to this incidentally, as showing, by Mr. Bell's own admission, that the Society is not that representative body which it claims to be: "Mr. R. Bell (General Secretary)" (I may state this was with reference to a resolution passed by the Congress of the Railwaymen's Union in favour of the introduction of a Bill providing for an eight hours day in every grade of the railway service) "pointed out that Congress had made the amendments in the draft Bill so far-reaching that its operations were made to affect the whole of the 575,000 railway servants in the kingdom. Of these, 250,000 were men for whom the Society did not cater" (I referred to that on the last occasion, and pointed out that by the rules every man who is in the railway service is eligible for membership of that society). "Out of 70,000 clerks he was doubtful whether there were seventy in the society, and of 70,000 platform porters, who were badly paid, and worked long hours, not 7,000 were members of the society. The society could not show a return of more than 60,000 members out of the 320,000 servants for whom they were legislating" (the number actually was 52,000, you may remember), "and that being the state of their organisation he thought the society's proposed order was a very large one. If the Congress decided to go on with this Bill for a general eight-hours day on the basis which they had laid down by their amendments it would put an end to the future movement for a limitation to eight hours. He advised them not to put forward such an order, but to persevere by agitation to bring the matter to the front and to ripen the opinions of men in the service before doing anything in Parliament. It would be simply ridiculous for him to stand up in the House of Commons advocating an eight hours' day for all railway men and have to face the very facts which he had mentioned. Moreover, the hundreds of thousands of railwaymen outside the society would come forward in such a case and prove that the Amalgamated Society had no authority to present the Bill on their behalf." Then, sir, one other extract from Mr. Bell; so recently as the 27th May last, the railwaymen's paper, the *Railway Review*, published an interview with Mr. Bell, copied, I think, from the *Daily News*. Mr. Bell said this: "I suppose that only one railwayman in six belongs to a trade union" (my calculation is one in eleven), "which means that the favourable legislation secured by this class of worker remains to a considerable extent inoperative. The fault lies, not with Parliament, nor with the officials of the Amalgamated Society, but with the rank and file of the staff." The favourable legislation, Sir, to which Mr. Bell refers, I may be permitted to refer to very briefly. There is the Employers and Workmen's Act of 1875—

1065. (*Chairman*.) Is it any use telling us that? It

is a general expression of Mr. Bell's, I suppose, and it is open to the very obvious criticism that legislation, after all, is made by King, Lords, and Commons, and I do not know that anybody has the right to claim the paternity of it?—No, sir, but it refers to favourable legislation, and my object was simply in passing to refer to three or four Acts which show that the railway working-man has been placed by Parliament in a very favourable position as compared with other labour, but that, notwithstanding, agitations are still going on which may lead to trouble in the future. I should like to refer to one Act which you may possibly consider comes directly within the scope of the functions of this Commission, and that is the Conciliation Act of 1896, and I simply do so for the purpose of putting in some figures. The general scope of this Act you are acquainted with—it provides for the establishment of boards of conciliation, and so on. By the returns of the Board of Trade—I think there are only two at present issued—one covering the period up to June, 1901—the total number of boards registered up to that date, the Act being passed in 1896, was only nineteen, and the same figure is given in the next Report which covers the two years from June, 1901, to June, 1903, so that it shows that no boards of conciliation whatever were registered during those two years.

1066. (*Sir William Lewis*.) These are boards of conciliation in general, not in connection with railway men in particular?—In general; so that altogether only nineteen boards of conciliation were registered. There are a great number of boards, I believe, which are not registered but those are the figures the official return gives. Under the Act, the Board of Trade may themselves, on the application of employers or workmen, appoint a person or persons to act as conciliator or as a board of conciliation in the event of a dispute, or it may appoint an arbitrator on the application of both parties. In the two years, from July, 1899, to June 30th, 1901, only twenty-three disputes were settled by the arbitrators appointed by the Board of Trade and only three by the appointment of a conciliator. In the next two years, from July 1st, 1901, to June 30th, 1903, twenty-seven disputes were settled by arbitrators, and only two by conciliators. I mention those figures to show that conciliation has therefore been a practical failure. In my experience trades unions are not generally averse to a conciliator being appointed to settle disputes of which they themselves were probably the originators, and they have many times to my knowledge invited persons to act, in the hope, I believe, that a certain amount of pressure might be brought to bear upon the employers to make concessions. The Taff Vale Strike might have been settled at any time if we had consented to the appointment of a conciliator, and on the face of it the suggestion, of course, as to conciliation looks fair; from the men's point of view I have no doubt that what induces them to suggest in the case of a dispute originating as I have stated the appointment of a conciliator, is that they may possibly get something out of the conciliator and that in any case they are no worse off. I was going to say that one of the reasons why we did not agree to the appointment of a conciliator during our strike was, that conciliation is practically impossible in the case of a railway owing to the very large issues depending upon it, but that will perhaps be rather a long story.

1067. (*Mr. Sidney Webb*.) Has that been found by the North Eastern Railway Company?—I should like to deal with that to-morrow; I have some documents which I think will throw some light upon it.

1068. As we are on that point of conciliation, the North Eastern has several times resorted to conciliation has it not?—On one occasion.

1069. On one occasion only?—I think only one when Lord James sat as conciliator or arbitrator, I forget which.

Mr. A. Beasley.

22 June 1904.

TWELFTH DAY.

Thursday, 23rd June, 1904.

PRESENT:

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*);

Sir WILLIAM THOMAS LEWIS, Baronet.

ARTHUR COHEN, Esq., K.C.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

SIDNEY WEBB, Esq., LL.B., LL.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*);

Mr. AMMON BRASLEY recalled and further examined.

Mr. A. Beasley. 1070. (*Chairman*.) You were going to give us the history of the Taff Vale dispute?—I wish to make the account as short as I can, but I have a good number of facts which must necessarily be stated. I have taken care to fortify myself with references to my authorities for all the statements which I am in a position to make. The strike, as you will know, sir, I daresay, took place in August 1900, but it was, in a sense, the sequel of a strike which occurred amongst the same classes of men in the year 1890, ten years before. That was before my time at the Taff Vale; but necessarily I know all the circumstances of the case. That strike in 1890 was mainly for the purpose of getting a reduction of hours, for the guarantee of a week's pay of sixty hours as a minimum, whether fully worked or not, and over-time at over-time rate after sixty hours had been worked. That strike lasted eight days, and ended in the company conceding the demands of the men. After the first day of that strike when one passenger train was run from Merthyr to Cardiff, no attempt was made to run any trains, although many of the men were willing to work and would have worked if the company had been in a position to protect them from molestation. Although the company made no attempt to import men to take the place of the men on strike, a number of men hearing of the strike went to Cardiff and offered themselves for employment, and in view of that the arrangements usually made for picketing, when a strike occurs, were made, and some acts of violence were committed, some very serious ones. The details of those I need not trouble you with, because I have to refer to many cases of violence during the strike of 1900. The settlement of that strike of 1890 was brought about by negotiations between the company and representatives of the Amalgamated Society of Railway Servants, to which society a considerable number of the men even then belonged. Immediately after that strike a number of members of the society in the service of the company were nominated by the local branches of the society as a Standing Committee, ostensibly to watch the interests of their fellow men in the service, but probably in reality to promote the interests of the society. I may say that when I went to Cardiff in 1891 I found that Committee in existence, and for some years afterwards; as this committee consisted entirely of Taff Vale men, it was tacitly accepted as representative of their fellow men in the service, and any grievances or supposed grievances which the Committee brought up were from time to time discussed with them. But after a time it became apparent that this Committee was not so much a representative of the men in the company's employ as it was of the union, to which, as it subsequently appeared, everything that transpired was reported, and by which its operations were directed. I have already referred to the fact that by the rules of the society the men who are acting on Committees are paid so much per day and their travelling expenses; and I have no doubt that these men were also so paid. That the operations of this Committee were directed by the society I think I am in a position to prove by the production of a hand bill which, although it purported to call what was a meeting of Taff Vale railway men, was headed "Amalgamated Society of Railway Servants, Notice. A mass meeting of Taff

Vale railway men will be held in the Colonial Hall, New Street, on Sunday, October 22nd, 1893, at 10.30 a.m. All Taff Vale railway men are earnestly requested to attend, as matters of great importance will be discussed. Committee meeting at 10 a.m." I was afterwards told by a member of the Committee that all those expenses—printing, hire of rooms, and such like, were paid by the society. Of course, although we were dealing with our own men ostensibly, appointed ostensibly by our own men to deal with matters affecting our own men, we were, by recognising that Committee, practically recognising the interference of the society in the company's affairs, and there was hardly any question that could possibly be raised by men in the employ of a railway that was not raised from time to time. Then the men began to interfere not only in matters relating to themselves, such as their wages, their hours of duty, and the other conditions of their employ, but they began to interfere in the company's business. The residents (this was about the year 1893) on the company's line memorialised for an increase in the number of Sunday trains (I give this as an instance). The Committee not only protested to the company against this request being granted, but they called public meetings and denounced the whole thing. Then on another occasion in the year 1895, they interfered in another matter relating to the company's business, by which the interests of the company were materially affected. Until that year it was the custom at the majority of the collieries to work on Good Friday. There are about seventy collieries altogether on the Taff Vale railway, and in 1892, fifty-five of those collieries worked on Good Friday; in 1893, forty-seven; in 1894, forty-six; but in 1895 the secretary of one of the local branches of the Amalgamated Society sent a letter, a copy of which I have, to the men or the men's lodges at the collieries calling upon them to assist the Taff Vale men by not working on Good Friday, on the ground that Good Friday was the only day in the year which the Taff Vale men had to themselves. Of course that is not a fact, because there are several days in the year which the Taff Vale men always had, for some of which, including Good Friday, they were paid whether they worked or not. This application had the effect which our men appeared to have desired, because that year on Good Friday only four collieries worked out of the seventy on the railway. Since that time the whole business of the line every year on Good Friday has been practically stopped, and it does not quite end there, because the men taking the holiday on the Friday are not inclined to work, a large number of them, on the Saturday; so that in Good Friday week we not only lose practically the whole of the Good Friday traffic, but we lose a good part of the Saturday traffic, and I estimate that the loss to the company has amounted to about £1,000 a year. Of course the inference possibly might be that if the men do not put out the coal to-day they will to-morrow, but that does not at all follow, because I do not think it is the practice of the colliers in South Wales really to make up any time that may be lost. Following upon that a very grave question arose. When the strike of 1890 was settled the men got a guarantee of a full week's pay, that is, that they should be paid, if they were

called out on any one occasion, for the full sixty hours, whether they worked or not, with this reservation, that if there were any unusual interruptions of labour in the district the guarantee was not to hold good. On those occasions the men were paid for the full number of hours actually worked. The cessation of work on that Good Friday and partly on the following day was treated by the company, and I think properly so, as an unusual interruption of labour, and the men were only paid for the hours they actually worked in that week plus ten hours for the Good Friday; so that most of the men, possibly nineteen-twentieths of them, were paid really by that means for the full week. But they were not satisfied with that, and threats were used of a strike; meetings were held and a good deal of unrest resulted.

1071. (*Sir William Lewis.*) Did they object to your limiting the number of hours that you paid them for on the Saturday?—They really objected to our considering that in that week there was an unusual interruption of labour, and so the charge against us really was violating the agreement which guaranteed, as I said, except on those occasions when there was an unusual interruption, a full week's pay. This Committee further got into the habit of re-hearing or re-trying any case in which men had been brought up before the heads of their departments for some misconduct or otherwise, and we were told at the time that they had all the witnesses up and they had tried the cases in their own way, and if they chose to differ from the conclusions which we arrived at we generally received on the Monday morning (for these meetings were usually held on the Sunday) a remonstrance or a series of remonstrances, even although the offences involved serious questions of discipline and the safe working of the line. This Committee also, and in many instances without the knowledge of the men themselves, put forward demands for increase of pay, reduction of hours, and in more than one case they represented that they were acting on behalf of persons, by whom they were repudiated; in fact the interference with the company's business was so constant, and the unrest it occasioned so serious, that it was ultimately found to be necessary to decline to grant interviews to discuss any alleged grievances except with the persons immediately concerned.

1072. That is to say, you declined to see the Committee?—I declined to see the Committee unless it was upon matters in which they themselves were personally interested. I was told by more than one of the men at this time that this Committee had stated, and put it about among the staff, that they were the only recognised medium through which any questions affecting the staff could be brought to the notice of myself, or the heads of departments, or the Directors. It is quite true, and it is only fair that it should be said, that the Committee denied having done so, but I think in one or two cases which I investigated it was shown that the men really did not go to the Committee at all, but that they were invited by the Committee to send to them any grievances under which they considered they were suffering.

1073. Did the Committee comprise any other person than workmen of the Taff Vale Company?—No, that made the plea that they were servants of the Taff Vale perfectly true in fact, although they were, as I said just now, acting more in the interests of the society than in the interests of the men. By that means, as I think you can see, a sort of Board of Conciliation was set up, but so far from its being a measure of conciliation it really led to a constant state of unrest, so that we were obliged to say that we could not any longer receive this Committee, or any members of the committee, unless upon matters in which they themselves were personally interested. The immediate effect of that refusal was that meetings were held and the action of the company denounced as an attack upon the union, not only by the men themselves at meetings, but by their newspaper. Thus you see that although the men posed as a Committee of Taff Vale men, acting only for Taff Vale men, yet as soon as there was a refusal on the part of the management to see this Committee of our own men except upon matters in which they themselves were personally interested that proceeding on the part of the company was denounced as an attack upon the union, which it certainly was not. As regards the inadvisability of allowing any such interference, I think I might quote the evidence given by Sir James Thompson, the present Chairman of the Caledonian Railway, with

whose views I entirely concur. This is a summary (I referred to it yesterday) of the evidence given before the Commission of 1894.

1074. (*Sir Godfrey Lushington.*) Was he concerned with South Wales?—No, but he expressed an opinion with regard to his own railway. I quote this for the purpose of showing that here we have the evidence of one of the oldest and most experienced railway men in the kingdom as to the inadvisability of allowing such interference as that to which I have referred.

1075. (*Chairman.*) Need you accentuate that. We can quite understand that that is Sir James' opinion, and that it was equally your opinion, and on your opinion you were entitled to act. We are not discussing that; this is merely incidental to the history of the Taff Vale dispute?—My object was rather to show this, that you cannot judge a railway by the ordinary considerations which apply to men and their employers engaged in other industrial pursuits. If an employer, a manufacturer we will say, chooses to allow a trade union to interfere with his business, of course he only has himself to please, and there are only two parties to an arrangement of that kind, that is, himself and his men, but in the case of a railway there is a third element to be considered, and that is the element of public safety; so that you cannot venture on a railway to do what a private manufacturer might feel himself perfectly justified in doing. It is only one sentence I wish to read.

1076. (*Sir Godfrey Lushington.*) Do you seriously suggest that there should be a separate law for trade unions in the case of railway companies?—No, I do not; I am not making any suggestion of that kind. I only know it has been urged against us in the course of these proceedings, and it will appear very clearly, I think, from the evidence I hope to give you a little later on to-day, that if we had agreed to see the representatives of the union this strike would never have taken place, and, therefore, I am endeavouring to explain the reason why it is impossible in my judgment for a railway company to allow anything of the kind to be done.

1077. (*Sir William Lewis.*) But is it not sufficient for you to state that, as your opinion, from your experience, rather than praying in aid Sir James Thompson, or anybody else?—Well, sir, if you so consider it. I am anxious to show that my view, which has been canvassed and criticised and denounced a good deal, is held generally by other railway managers in the kingdom.

1078. (*Chairman.*) If it is only one sentence, let us have it?—It is all summed up in one sentence: "So strong were the objections to the proposal that several railway managers affirmed that the risk of a strike would be preferable to the settlement of a dispute by outside arbitration." I thoroughly agree with that. I will just venture to say that there is a very important element in the relations between railway men and their employers that does not arise elsewhere, and that is the element of public safety, and in order to secure safety, of course two things are essential, there must be stringent regulations and stringent enforcement of the regulations. Before everything else, punctuality of working, given, of course, a good road and efficient equipment, is the best guarantee of safety. Unpunctuality, on the other hand, is of all things most conducive to risk of accident. We heard something yesterday about what has been popularly termed the go-easy policy, but any such policy on a railway, if carried out, would not only limit the capacity of the railway, but would disorganise the whole operations and become a fruitful source of accident. I well remember, sir, a very serious accident which occurred on the Great Western Railway in the year 1890, or the beginning of 1891 (I think it was 1891); it was just before I left the Great Western to go to the Taff Vale. A train had been shunted on to another line and had there been forgotten by the signalman, who allowed another train to follow; a collision ensued, many persons were killed and a great many more injured. In consequence of that, the Board of Trade directed the attention of the railway companies to the necessity of devising some means by which an accident of that kind, arising through the forgetfulness of a signalman, could be averted, and the railway companies set themselves very seriously to consider how that could best be secured. Some of them, ours included, have adopted a mechanical arrangement, which is a reminder to the signalman; it consists of a shield with a ring, and

Mr. A.
Beasley.

23 June 1904.

Mr. A.
Beasley.

23 June 1904.

that ring is put over the lever which the signalman would have to actuate before allowing a train to come on which would conflict or come into collision with the train which is standing on the line; and a series of rules were laid down, which met with the approval of the Board of Trade, under which when a train was standing on the main line awaiting a signal the persons in charge of the train, either the fireman or the guard, according to the position of the train in relation to the signal, should go to the signal cabin and remind the signalman that the train was waiting, and if necessary remain in the signal cabin until the obstruction was removed and the train could be allowed to go on. That regulation was put in force on the Taff Vale Railway, and shortly afterwards we had a number of very serious breaches of that regulation, which showed clearly to my mind that there was, in certain cases at least, an evident desire to lose time, to give rise to unpunctuality. Some of those men were temporarily dismissed or reduced in position. Ultimately they appealed to the directors, and all of them, after a short time, were reinstated; but that again was made the foundation for an agitation throughout the district, and a strike was threatened, and I thought then that we were certainly on the eve of a strike.

1079. (Sir William Lewis.) That passed away then, did it?—It passed away because the men appealed to the directors. The directors heard what they had to say, and all the men were ultimately reinstated after a short period, in the case of some of them of reduction of position; they were put back in their grade, but all ultimately reinstated. I simply mention that to show the kind of thing which was held to be a justification for threats of a strike.

1080. Do you suggest that that was an organised affair?—I do not suggest that it was an organised affair among these men who were found to have lost time, but there was no doubt that as respects these men there was an entire disregard of this regulation, which led to very serious delays and interruptions of the traffic. The "Railway Review," which is the organ of the Society (I see it was in 1894), referring to this matter said: "It is needless for us to say that we do not object to legitimate discipline, which is absolutely necessary on a railway, and we should be the last to countenance any laxity in obedience to regulations made to secure safety, but when not less than fourteen of such men are brought before the directors at one sitting for alleged offences, it suggests the need for calm inquiries. For instance, under the pretext of carrying out a recommendation of the Board of Trade, instructions have been issued that if a train is kept waiting at a signal box, although it is only a few yards from another train in front, the fireman or guard, as the case may be, is to acquaint the signalman of the obvious fact that his train is standing. In this way a wise precaution under similar circumstances to those of the Thirsk disaster" (that was, I think, another case where a similar mishap occurred) "is converted into a farce which is opposed to common sense, but it has admirably served the double purpose of irritating the men and deceiving the public." As I have said, that regulation was drawn up at the request and with the approval of the Board of Trade. On another occasion (I think this is the only one I need now refer to) in 1893, there was a general strike in the coal industry—Sir William Lewis will remember it—which lasted for three or four weeks, but there were expectations of a strike for some time and the trade was very bad indeed, and we found we had not sufficient work for our train men. As we had, as I have already explained, guaranteed payment for a full week, whether we had work or not, it became necessary to consider how we should deal with the emergency which thus arose, and we thought that the best way would be (and I think so now) to dispense temporarily with the services of some of the junior men of each grade, and this notice was given,

1081. Are you referring now to the haulier's strike in the autumn of 1893?—Yes, but this was before the strike. I said just now, I think, it was on one of those occasions when the terms and conditions were under consideration, and for many months there had been an expectation of a strike, and a good deal of the trade was diverted from South Wales to the North of England in consequence. I am speaking from recollection, of course, but I am absolutely certain of the fact that there was a very great depression of trade at the time, otherwise this step to which

I am now referring would not have been taken:—"In consequence of the continued depression of trade the Board find it necessary to reduce, they hope temporarily only, the number of the staff employed on their railway, and I have therefore to give you notice that your engagement as, say, mineral guard, under the company will terminate at the expiration of fourteen days from this date." With that notice was sent out this: "The notices have been issued because for some weeks past there has not been full work for the train men, and it is feared that the present depression will continue, if it does not increase. The company's receipts are down £20,000 for the half year to date" (this is dated 1st May). "The directors have refrained hitherto from dispensing with any of the staff, in the hope that trade would revive and render such a step unnecessary, but they consider that they have now no alternative but to reduce the staff. It will be a source of much gratification to the directors if the trade of the district should revive and thereby justify the retention of at least some of the men who have received notice, and all may be satisfied that as far as possible their claims to reinstatement when opportunity arises will be fully recognised." On the 14th May this further notice was issued: "Owing to the traffic showing signs of improvement, the directors at their meeting to-day were glad to be able to defer putting into effect the notices given on the 1st instant to certain of the train men to leave the service. I was accordingly instructed to withdraw the notice given you, and in lieu thereof to give notice that your engagement under the company will terminate at the expiration of fourteen days from the date hereof. It will be a source of gratification to the directors if the condition of trade at the end of that period justifies them in further extending or cancelling the notice now given." On the 25th May this final notice was sent: "The traffic of the railway having sufficiently improved to afford reasonable expectation that full employment may continue to be found for the whole of the present staff, I have, in accordance with the intimation given on the 14th instant, that the directors would be gratified if the state of trade justified them in cancelling the notices then given, to state that the notice you have received to leave the service of the company is hereby cancelled." Now, in consequence of those notices, which, I take leave to say, show a large amount of consideration for the men affected, a meeting was called by the committee, to which I have referred, and a resolution was passed, which I should like to read to you.

1082. Was the committee comprised of the same persons right through the whole of these various alterations that were suggested by notice and otherwise?—I do not know; I fancy there were about a dozen, and they probably continued to act. This is the newspaper report of a meeting held at Cardiff, and the date is May 25th.

1083. (Sir Godfrey Lushington). Was that after all those various notices?—The last letter which I have just read was on the 25th May; that was finally withdrawing the notices, and this newspaper report is dated 25th May, so that probably the meeting was held a few days before. This is the resolution that was passed: "That inasmuch as every legitimate effort has been made by our duly elected representatives to obtain a hearing with the Taff Vale Board of Directors or Management without success, in reference to the notices given to a section of the train staff, this mass meeting do hereby recommend the non-acceptance of any further extension of such notices, it being by the present state of trade strictly unwarrantable. We, therefore, employed as drivers, firemen, guards, shunters, brakemen, and signalmen, pledge ourselves that in the event of the men under notice being dismissed, and any other labour, such as firemen doing drivers' duty, cleaners doing firemen's duty, or brakemen doing shunters' or guards' duty, or any other labour being employed as the result of the non-acceptance of the men under notice and a further extension of such notice to resent the same at the expense of immediate cessation, as such practice would be unsafe and impracticable."

1084. Then, concurrent with these last notices, you were at the time, I assume from that, declining to receive this committee?—Yes, that was about the time when we were declining to receive the committee. I need not refer to other matters in which this committee interfered, but I will content myself with repeating that there was scarcely anything that we had to do as a railway which was not made the subject of some interference or some remonstrance on the part of this committee. I see I have one or

two references here to what I have already stated, that this refusal to see the committee was at once denounced as an attack on the Union; I see that was said by Mr. Bell himself at a meeting at Cardiff, on the 10th December, 1893. Mr. Bell was then the local secretary; he has since been appointed, as you probably know, the General Secretary of the Society, and on the 29th January, 1894, the then Secretary of the Society, a Mr. Harford, also said that this refusal was an attack on their organisation.

1085. But no rupture arose out of the resolution that you have just read, which they passed with respect to their position?—No, because in pursuance of the intimation that had previously been given to these men when they were told that if the trade revived the directors would be glad to withdraw the notices, the notices were withdrawn because the trade did improve. Then I see that in consequence of the refusal of the directors to further recognise the committee as a committee, at a meeting on the 29th January, 1894, a resolution was passed threatening that if the directors did not see the committee by February 25th, the General Secretary of the Society would be empowered to enforce the demands, and "The Railway Review" of 2nd March, 1894, says, "that other means of redress will be considered if the committee were not recognised." Therefore, while we were being assured by the men that they were all Taff Vale men, and were elected by Taff Vale men, and were only there for Taff Vale purposes, you see as soon as ever the company declined to further recognise them, it was treated, as it was throughout, there is no doubt, as a society question, and a strike was threatened in consequence. I need hardly say that that led to a great deal of unrest, and to a good deal of insubordination, and that feeling of insubordination is largely promoted, or, certainly, kept up by the society making grants of money to men who have been dismissed the service, generally for causing accidents, on the ground that they have been, as they called it, victimised by reason of their membership of the society. I have one or two such cases here. In 1896 a signalman at Pontypridd had a train standing at a signal just ahead of his signal box; the train was so long that it actually extended beyond his cabin, and he could himself have almost touched the train if he had put his hand out of the window; but, notwithstanding that, he gave all the signals necessary to allow another train to come on, and a most serious collision was caused, doing a vast amount of damage, and the whole case was so serious that it was considered necessary that the man should leave the service. We certainly could not retain him in the position of signalman, a man who made such a mistake, especially as our experience shows that a man who makes a mistake of that kind almost invariably repeats it. If, for instance, a driver runs past a signal at danger you are almost afraid, however good that man's character may be, to allow him to continue driving, because the chances are that he will repeat the mistake. I have in my mind an instance of a driver, who is now pensioned by the Taff Vale Company; he was the driver of a passenger train, and ran past a signal at danger, but in consideration of his length of service and general good conduct that was overlooked, and he was allowed after a time to continue to drive passenger trains. However, shortly afterwards he did the same thing again. We felt it too serious a matter for him to continue to drive passenger trains and he was then put to drive mineral trains. Shortly afterwards he did it again, and we were then compelled to put him on to shunting work, to enable him to work out his time until he was eligible to receive his pension. I shall, hope, Sir, to have an opportunity of referring presently to the fact that the Taff Vale Company have a system of pensions which is more liberal than that of any other railway company in the Kingdom, with one exception, and I will refer to that, with your permission, when I seek to show that there were no grievances—that the Taff Vale men had no grievances whatever to justify them in striking in the year 1900. In order to keep this man going until he was eligible to take his pension, we put him on shunting work, and the man is in enjoyment of his pension now. Reverting to the case of the signalman; he was dismissed, and the Society awarded him £50 on the ground that he had been dismissed because he was a member of the Society. I repeat, sir, what I said the other day, emphatically that no man on the Taff Vale Railway has ever been dismissed, or punished, or in any way ill-treated, because of his membership of the union. I have never inquired, and never allowed anybody to inquire,

whether a man was a member or not. If it had been the habit of the Taff Vale Company to dismiss men because they were members of the union it would follow that nine-tenths of the men would have been dismissed for that reason, if it is true, as is alleged, that something like 90 per cent. of certain grades of the Taff Vale men are members of the union. There is another case of a signalman who was dismissed for being asleep on duty and causing serious delay to a passenger train; also for throwing an engine off the line, and in both cases for a gross misrepresentation of the facts, and he was awarded £50.

1086. (Sir William Lewis.) It was a lump sum of £50?—Yes; I have here the minutes of the Society, and I can refer you to several cases where they awarded this sum, because the men were what they call victimised. In 1901 a very serious mishap occurred on the Taff Vale Railway—one of so serious a character that it occasioned everybody the greatest possible concern. It was of a kind I never heard of before in the whole of my experience of over forty years. An engine coming out of the engine-shed was turned by the signalman, or by someone in the signal-cabin, on to the wrong line, and that engine ran on the wrong line for over a mile up an incline of 1 in 40 between Penarth Dock and Penarth Town Stations without the driver finding out that he was on the wrong line, and without any report whatever having been made of the circumstance which would not have been known by anybody if it had not been that the signalman at Penarth Town Station reported the fact. Nobody concerned reported it at all. The drivers and guards have to fill up a paper giving particulars of their running, whether they have run punctually, and giving reasons for unpunctuality, and stating any circumstances which may arise to which it is necessary to call attention. Nothing whatever was reported by the men in charge of the train, and when it came to our notice the driver and fireman who were supposed to have been on the engine were suspended pending inquiry. Then it appeared that the fireman was not there at all, that he did not come on duty until an hour and a half after time. It was admitted, I think, in the report of the case made by Mr. Bell to his Executive Committee, that the man was fifty-five minutes late, but notwithstanding that he was late (of course, I need hardly say that a fireman coming on duty for a passenger train an hour and a half late was a serious thing in itself, and even if it were only fifty-five minutes it would be a most serious thing) it was made to appear by the reports made by the men in charge of the train that this fireman was there, and we found when we suspended him that we had suspended a man who was not on the engine at all. An inquiry resulted, and it was found that there had been a series of very grave irregularities. All our men are required to live as near their work as possible, and of course it is obvious that the men are liable to be summoned at all hours, and it is necessary that they should be within call. It was found that a number of men who were supposed to have been living at Penarth were really living in Cardiff, and that instead of going to take up their duties at Penarth they were in the habit of changing at Grangetown and sometimes at Cardiff Station, while the reports of the driver and guard showed the names of the men who were supposed to be there, and who were not there. The whole thing was so grossly wrong, that the signalman and the fireman were dismissed.

1087. They must have been making fictitious reports then?—Yes, they were dismissed, and both the signalman and fireman were rewarded with £50, although Mr. Holmes, the district agent of the Society, in the case of the signalman, said that he had investigated the case on his own behalf and found that the mishap, the turning of the engine on to the wrong line, was not caused by the signalman at all, but by a boy in the cabin. So that the inference is either that the signalman was allowing a boy to perform his duties while he was there, or that he himself was away, and that a boy was in the cabin. Nevertheless, both of these men received the £50. Another case is that of a driver who charged some of his fellow drivers with stealing coal. The drivers waited upon the locomotive superintendent and made a complaint, and this driver was called upon either to substantiate the charge or to withdraw it. He refused to do either and he was told that he would not be allowed to return to duty until he had done one or the other. He failed to do either, but he

Mr. A.
Beasley.

23 June 1904.

Mr. A.
Beasley.

23 June 1904.

was treated by the Society as having been dismissed because he was a member of the Society, and he got £50. Then another signalman, some years ago, was in a main line signal-cabin, and he also committed one of those curious mishaps which arise from a lapse of memory, by allowing a second train to come into his section and come into collision with a train which was standing at one of the signals controlled by his signal cabin. In consideration of the fact that he had an aged mother to keep, he was allowed to remain in the service, but it was considered dangerous to put him on the main line, and he was put on one of the branches. It was the Eirw branch, which I daresay you know, Sir William Lewis, where there was very little indeed for a man to do. Some time afterwards he appeared before the superintendent as a member of a deputation of signalmen who represented that their wages were insufficient, and, amongst others, this man said he considered he was worth a great deal more than he was getting. An inquiry was thereupon made, and it was found that the duties which this man was performing could be performed by another man in addition to the duties which this other man was performing, and that the post could really be abolished. It was decided after very anxious consideration by the superintendent and myself to give this man another trial in a signal-box on the main line. He was there a few months and caused a collision almost of the same character that he had committed before. We hardly knew what to do with the man; we dared not trust him in a signal-box again, and he was found a place near Cardiff, where he would not have anything to do with the movement of trains, and in that way, of course, I considered that we treated that man with most exceptional consideration, notwithstanding that he was one of the most prominent men in the strike. He refused to take up this position which was offered him, and he was awarded £50 on the ground that he had been dismissed because of his membership of the union. The last case I need refer to is the case of a signalman at Ferndale, at the foot of what we call the Mardy incline, which is a railway running up to the village of Mardy, and to a large colliery there, and the gradient of that line varies from 1 in 35 to 1 in 38 and 40, and therefore has to be worked with exceeding care and under very stringent regulations. The signalman one day in the signal-box at the lower end of the incline lowered his signal and gave the necessary bell signals on his block instrument for a train to come from Mardy down this incline, and while it was running down he allowed another train to foul the main line in immediate proximity to his signal cabin. He could not lower his signals for this second train to come into the section until his signals had been put to danger against the approaching train, but the driver of this train was coming at an unusual speed, the train overcame him, and he could not stop, although he saw the signal at danger.

1088. He was coming down the hill?—He was coming down the hill and he ran into the train below and a very serious accident resulted. That was a case which we were bound to meet with dismissal, but there again £50 was awarded to the man because it was alleged that he had been dismissed because of his connection with the union. Then another case (and this is the last I am going to refer to) occurred during the strike.

1089. The strike of 1900?—Yes. The driver of the hydraulic engines at Penarth Docks was a man who did not go out with the other men; he continued to work for three, four, or five days, or it might be a little more, but the superintendent of the dock heard one day during the strike that this man had been got at and that he was no longer to be relied upon, so he went to the engine house and asked him whether he was a loyal servant of the Taff Vale Company, and he said, "Yes." In order to test him the superintendent said, "Now the dock gates are open; there are vessels in the dock worth many hundreds of thousands of pounds; if you were to be called out now, with the dock gates open, should you go and leave your work?" "Yes," he said, "I should." The superintendent had no alternative but to send him about his business there and then, as he could not of course venture to leave a man for five minutes in such a position who might cause such enormous damage. In the Bristol Channel the rise and fall of the tide is very great; sometimes we have tides running up to forty feet, and if those dock gates could not have been

closed every vessel in that dock would have been practically ruined.

1090. (Sir Godfrey Lushington.) May I ask do those officers accept their duty upon the condition of giving notice if they wish to leave?—Yes, fourteen days.

1091. Then the man who was in charge of the hydraulic engines would have broken his contract?—In this case he had not broken his contract, but he said, "If I am called upon by the union to go out, I go, notwithstanding that the dock gates may be open at the time."

1092. (Sir William Lewis.) And notwithstanding that it would be in violation of the rule as to giving notice?—Certainly. Of course, as I say, the superintendent had no alternative but to send him about his business there and then, and get another man to take his place. Then the man was awarded £50 and the Minute shows as the reason for giving him the £50, that he did refuse to work the engines. This is the Minute that was passed: "That we grant the Protection Fund payment of £50 to Brother W. Avery, of Penarth branch, for his loyalty to the society in refusing to drive the hydraulic engines for imported labour, which caused the Taff Vale management to refuse his reinstatement on the termination of the dispute."

1093. That was during the strike and during the time when strangers had been introduced?—That was during the time, but at that moment there was nobody working on the dock at all; the whole of the work at the dock was stopped for several days, but we did begin, I think, in the second week to do some work there.

1094. (Mr. Cohen.) That is the strike of 1900?—That was the strike of 1900.

1095. Now long did that last?—A fortnight, or rather the men decided on the Sunday to strike, and the strike took effect from the following morning, and it was on the morning of the Saturday week that the strike came to an end, but very few men worked on that day.

1096. Did they give notice when they struck? Did they leave their work, or what did they do?—I am going to state some of the facts presently; I am now coming to the particulars of this strike. For several years, from 1895 up to 1900, we had every reason to believe that the men were perfectly satisfied and perfectly contented to settle down, that this period of unrest had come to an end, and we were hoping that the men were entirely satisfied with the conditions of their service.

1097. (Sir William Lewis.) Between 1895 and 1900?—Yes, between about 1895 or 1896 and 1900, but I think it is not at all unlikely that this committee I have referred to or some committee still remained in being; that I do not know.

1098. But there were no communications as between the Committee and yourself, or as between the Committee and the Directors?—No, there were no further communications with the Committee at all; I have no means of actually knowing, although I think it very likely that that Committee or some committee was still in being. So we thought we had got to the end of our troubles. We were perfectly satisfied that we were treating our men as well or better than men were treated on other railways; in fact as regards wages and hours and the general conditions of the service, there was no justification of any sort or kind for the strike which unfortunately followed. I have here a statement which I have compiled showing the wages paid by the Taff Vale Company at the time of the strike for goods and mineral guards, brakesmen, signalmen, drivers and firemen, and I should like, sir, to put that in (*The statement was handed in. Vide Appendices, pp. 45-52.*) It compares the wages paid by the Taff Vale Company with all the neighbouring railways and the principal railways of the kingdom, and taking them all round they were as favourable to the men as those on any other railway, and in some instances very much more so. Of course you cannot compare a short railway like the Taff Vale, where the very longest journey you can get is about thirty miles, with a railway like the Great Western or the North Western, where a man will run 150 to 200 miles at a stretch; you cannot compare those. Therefore taking the drivers of those very fast and important trains, you will probably find that the Great Western men got 1s. or 2s. a week more than our men.

1099. But comparing like with like?—Comparing like with like our wages are as liberal as those of any other

railway company. Therefore I say, sir, that there was no justification for the strike on the ground of wages or any of the conditions of the service, but there were reasons why the Taff Vale men particularly should be satisfied with the conditions of their service. Unlike other railways the Taff Vale look after the men in their old age and grant them pensions without any contribution whatever from the men themselves. It may be within your knowledge, sir, that most of the railways do something towards making provisions for their men when they are past work, or rather perhaps I should put it, assisting the men to make provision for their old age; for instance, the Great Western had a Pension Fund for very many years (I have been on the Great Western myself and, of course, I know all about it), but quite recently it was found not to be solvent, that is not solvent from an actuarial point of view. The principle on which that fund was established and maintained was this, that the men should pay so much a week, I think about 2d. a week, and that the company should pay an equal amount, so that whatever the contributions of the men amounted to the company paid an equal sum, but it was found that was not sufficient to make the concern solvent, and it has recently been reorganised at the request of the men, and it has now taken this form, that the men make certain contributions towards a fund which is calculated to produce 5s. a week and to be solvent on that basis, the company undertaking to add to the pensions of these members varying sums, making up the whole amount in some cases to as much as 20s. a week. They sought Parliamentary sanction to that fund, but it was opposed by Mr. Bell and others in the House, on the ground that membership of this fund was to be compulsory, and as the consequence of that, I believe the provision as to the fund being compulsory was withdrawn, and it is now made optional, but I am informed on very good authority that only 3 per cent. of the men have declined to become members. As respects that 3 per cent., they are unfortunately in this position, that not only are they not making any provision for themselves for the 5s. a week which their small payment would secure to them, but they are not getting anything from the company, because the provision which the company agrees to make is simply in addition to the provision they are making for themselves, and therefore does not apply to men who are not members of the fund. But the Taff Vale did not require any payments whatever to be made by the members. They proceeded, sir, on this principle, that they would leave the men to make whatever provision they thought proper for themselves and that the company would recognise their liability to help them to the extent perhaps of one half of what might be necessary to keep these men during their old age, and, therefore, without establishing a fund, or subscribing to a fund one half of the income, as is done in the other cases, they leave the men to do as they please and they grant those pensions themselves. When this was originally started, which was on the 1st January, 1903, the minimum pension was 5s. a week and the maximum 20s., but within the last year the Directors have increased the minimum from 4s. to 7s., and they have also recently inserted a clause in one of their Acts giving the company specific Parliamentary power to grant pensions. They did that because a doubt was expressed as to whether they could legally grant pensions or not. I need not say that this pension scheme was in operation at the time the strike of 1900 took place. (*Particulars of the scheme were handed in. Vide Appendices, p. 53.*)

1100. (*Sir Godfrey Lushington.*) Was the strike about the pension scheme?—No, sir; I am endeavouring to show that there was nothing in the conditions of the men's service which justified the strike, but that on the contrary there was everything in the state of circumstances which ought to have secured the company from an attack of that kind. At this moment there are 119 pensioners on the company's books, receiving altogether £3,497 19s. 8d.; that is the aggregate amount of the pensions now in force. (*A statement giving details was handed in. Vide Appendices, p. 54.*)

1101. (*Sir William Lewis.*) Per annum?—Per annum, but that does not at all represent what the Directors do for the men in their employ, because they subscribe largely to the superannuation of men of other grades. I may sum up with regard to this point, that during the time that has elapsed since this Pension Fund was

established in 1893, the company have paid in pensions, in contributions towards superannuation, and in grants to the families of men who died, and to men who left the service in distress through sickness, over £48,000, which I think is what no other railway company in the kingdom has done proportionately. (*Statements giving details of these payments were handed in. Vide Appendices, p. 55 and 56.*)

1102. Now will you give us the cause of the actual strike?—I have come to that now. The history of the strike itself commences with an article in the men's newspaper. I will endeavour in deference to your wish, to cut it as short as I can. It was in the shape of what was called an open letter to Taff Vale Railway men and the effect of it was that "You are too satisfied; we want to show you that you ought to be dissatisfied," that is the purport of it. The conclusion of the letter is this: "I am writing this," the writer says, "hoping that it will be the means of stirring you to action and to set aside the apathy and indifference which exists among you. A meeting will be called again of the men of the three lines" (that is not only of the Taff Vale, but the Barry and the Rhymney, which are referred to). "Let this meeting demonstrate that the old spirit of 1890 has returned and that you are prepared to act unitedly, wisely, and effectively."

1103. What is the date of that?—1st September, 1899. That was the commencement of the agitation which culminated in the strike of the following August.

1104. (*Mr. Cohen.*) Was that the whole of the letter?—No, in deference to the wish of the Chairman, I have only just read the concluding passage.

1105. You will put in the whole of the letter?—If you wish it, certainly. (*The letter was handed in. Vide Appendices, p. 57.*) That was immediately followed by various branches of the Society in South Wales making application to the executive for authority to hold a meeting.

1106. (*Sir William Lewis.*) That was practically twelve months before the actual strike?—Yes, it was the 1st September, 1899, and a meeting was held on the 1st October. That was a meeting of Taff Vale men, and men on the Barry Railway, and on the Rhymney Railway, and a programme of demands to be made on the three companies was formulated. The expenses of calling and holding that meeting were, as was subsequently ascertained, paid for by the Society. Then on the 13th October, 1899, a further article appeared in the "Railway Review," urging upon railway men, if they were alive to their own interests, to rise to the occasion; and the same paper contained a manifesto to the railway men of the United Kingdom, signed by Mr. Richard Bell, the General Secretary. A programme formulated by Mr. Bell was adopted by the Taff Vale men, and was in due course sent by the Taff Vale men to the Company with a request that the terms of that programme might be granted. (*The programme was handed in at a later stage of the proceedings. See Q. 1127 and Appendices, p. 58.*)

1107. That was October, 1899?—Yes, and on the 3rd November another open letter was published in the "Railway Review," in which this passage appears. "A stoppage of the railways would be more than a strike—it would be a national calamity—a disaster from which we may well hope to be delivered. Upon the railways depend the transit of more than 1,000,000,000 passengers every year; the coal that lights our fires and turns the wheels of our factories and workshops; all food supplies and finished goods, in fact the whole machinery of our modern life. It is not right, therefore, that the men who manipulate this machinery should be the worst paid, and the longest worked of any class in the community, and you must see to it that your claims for better consideration get a hearing. Let there be one united, continuous, shout, until the walls of our Jericho fall down flat, and we go in to possess the promised land." Again, sir, on the 10th November there was a further similar article, to which I need not refer. It was on the 16th November that we first got a communication from the men, asking for better conditions of service. We got a letter from a Taff Vale signalman, who it appears was secretary of the Pontypridd branch of the Company, and he enclosed a programme of improved conditions of service which it was desired, he said, to introduce on the Taff Vale Railway, and that programme was in general agreement with the general manifesto issued by Mr. Bell in October. The answer that was given to

Mr. A.
Beasley.

23 June 1904.

Mr. A.
Beasley.
23 June 1904.

that was that inasmuch as this programme dealt with matters which had only recently been considered and dealt with by the directors, they were not in a position to re-open the question, whereupon a meeting was held again of Taff Vale, Rhymny, and Barry men, and the Cardiff Company's men were included on this occasion, at which a resolution was carried instructing the delegates, that is, the so-called committee on whose behalf this signalman wrote, to place the matter in the hands of the Society, which means of course the executive of the Society. A statement issued by Mr. Bell about the 15th December referred to the movement as having been sanctioned by the Society in October. At the meeting to which I have just referred, one of the speakers said that the whole of South Wales was centred on that meeting, and indeed all the railway workers in the country, because they were trying to formulate a precedent. That precedent was the recognition of the Society. A meeting of the Executive Committee of the Society followed at which the General Secretary was instructed to offer to submit the questions in dispute to arbitration. The matter as you will see, sir, was referred back to the executive of the Society, who instructed Mr. Bell to offer to the Company to submit the questions in dispute to arbitration and, failing a reply within six days, to take a ballot of the men, to ascertain if they were prepared to enforce their demands.

1108. Was that a direct communication from Mr. Bell for the Society to you?—I received a letter dated 16th December from Mr. Bell, stating that the whole matter had been handed over to the Executive Council of his Society, and that he was directed to refer it to arbitration. The answer of the Company was that they declined to recognise the intervention of any outside person in matters concerning the employment of the staff, and on the 14th January a further meeting of South Wales railway men was held at Cardiff, when Mr. Bell was present and one of the speakers, the signalman who had sent the programme to the Company, said this, "He would like the public to understand that the quarrel was not on the programme, which had been sanctioned, but was on the point that the Company would not receive representatives of the men; in other words, that meant the officers of the Society." At this meeting a resolution was carried that unless the companies granted an interview to their representatives within seven days, notices would be handed in, and on the 15th January Mr. Bell wrote to the Company, forwarding a copy of the resolution, and asking their directors to grant the request, and thus avoid a conflict. It subsequently appeared that notices had been placed by Mr. Bell in the hands of the men, and that a large number of them had already been signed. That is shown by what appeared in the "Railway Review" of January 19th, 1900.

1109. Signed, but not delivered?—Signed, but not at that moment delivered. On the 28th January another meeting was held, at which Mr. Bell and Mr. Holmes, the district secretary, were present, and a resolution was passed: "That the notices in the hands of the general secretary be presented in fourteen days unless the companies agree to see the men's representatives." You see, sir, up to this point, we were not alone in this agitation, other local companies' men were also agitating. At this meeting Mr. Bell said that they had now arrived at the critical stage, and on the same day he wrote to the company stating that the men had decided to give the companies one more week in which to meet their representatives, failing which notices were to be handed in. On the 1st February he was told that if the company's men wished to bring forward questions touching their wages or conditions of service arrangements would be made to give them an interview. He replied to that letter that he would take the necessary steps to see that such was done, showing, of course, that he had the direction and control of the matter. A meeting was held—in fact there were two meetings, one on 9th February and the other on the 5th March, at which the whole of the representations made by the men were very carefully considered, many hours were spent in hearing what the men had to say and discussing the various matters with them with exceeding patience. The heads of departments met their respective men. At the interview on the 9th February the driver, who at the meeting on 10th December had had stated that the object of the agitation was to formulate a precedent, admitted that the committee was formed at the instigation of the Society, and that it was the committee which instructed them to communicate with the Company.

1110. This was a meeting with you and not with the

directors?—It was with the superintendent of the line in respect of the guards and signalmen, and with the locomotive superintendent with regard to the drivers and firemen. Of course notes were taken of the men's representations and they were promised that they should be carefully considered, and that was done, and while consideration was being given to these representations a meeting was held on the 4th March, and again Mr. Bell was present, and he referred to the interview on February 9th and said if the replies were not satisfactory the men would have to consider the advisability of pursuing some stronger course of action in order to enforce their demands. Then on the 5th March a further interview was given to the men, when the decision which the company had arrived at with regard to their representations was communicated to them. I may say some were granted and others were granted partially, but some were necessarily declined. A day or two after that, on the 9th March, there appeared another article in the "Railway Review," which stated that the agitation was a grim, determined, resolution to improve the present conditions, as was proved by the fact that so many men gave their notices into the hands of the general secretary. On the 10th March there was a further meeting in Cardiff, when Mr. Bell said he was in a fighting humour and that the time had come when the men should show that they were not to be made fools of any longer; they had made fools of themselves by conducting negotiations apart from the society. A resolution was passed at that meeting: "That all further negotiations should be conducted by Mr. Bell for the Society, and that a ballot should be taken as to whether notices should be sent in." On the 12th March the Executive Committee of the Society passed this resolution: "That if any of our members think fit to come out on strike, in defence of justice and rights of their fellow-workmen, this executive give them our support as per rule." On the following day Mr. Bell issued a manifesto to the men on the Taff Vale, on the Rhymny and the Barry to which a ballot paper was attached. The men did not respond to this invitation of Mr. Bell in what he considered to be sufficient numbers. On the Barry Railway out of 425 men, only 240 voted and thirty-three voted against a strike. There were 530 men in the service of the Cardiff Railway Company (the Cardiff Railway Company were also included in this) and only 104 voted for a strike. Of the 542 men on the Rhymney Railway 365 voted in favour of a strike and 82 against, while on the Taff Vale Railway, out of 1,044 men, 755 only voted for a strike and 201 against. So that when the next meeting was held to receive the result of this ballot, Mr. Bell stated that as the percentage in favour of a strike was below the standard of 90 per cent. that had been fixed the Committee were advised that nothing further could be done at present but to accept the offers made by the companies and to report to the executive of the society who would meet at Cardiff in April. On the 30th March the "Railway Review" referring to the ballot said, "It was for the men to inquire if any other method existed of obtaining better treatment and larger concessions, and added it is for the A.S.R.S." (that means Amalgamated Society of Railway Servants) "to adapt its machinery to the ends it is intended to serve." On the 6th April the same paper again remarked, "That the result of the agitation will be a blow to the prestige of the society we do not for a moment believe." On the 8th April Mr. Holmes addressing a meeting at Bridgend on the Great Western said that, "The society could be as patriotic as any one, but the moment the war in the Transvaal was over the agitation would be taken up where it had been left off." Then, sir, at this stage the case of a signalman named Ewington cropped up, and it is of importance that the facts of that man's case should be stated, because when it came to close quarters when a reason had to be assigned for the strike it was the supposed ill-treatment of the man Ewington that was assigned as the reason and the sole reason. The allegation made with reference to this man was that he was dismissed from the service of the company while he was ill. There is no foundation whatever for any such statement. So far from the man having been dismissed he was offered promotion—offered to be placed in another signal cabin at an increase of 3s. per week, but for family reasons of his own he declined to take it.

1111. He objected to be removed from the neighbourhood?—Yes, he objected to be moved from the neighbourhood because he had lived at the same place during the whole of his married life and he had a large family, and so on. The difficulty of dealing with a signalman is this:

You can hardly increase the wages of a signalman without removing him, inasmuch as the wages paid to signalmen depend on the amount of work done in the signal cabin. They are generally calculated according to the number of movements made by the levers in the cabin. When this man represented that he was dissatisfied with his position naturally the superintendent being desirous of giving him promotion had to look round and see how he could give it—that is, see where there was a cabin vacant which would give him the necessary promotion.

1112. It was in response to an application of his, was it?—Yes, he was a member of one of those deputations which attended on 9th February and the 5th March. In the course of a discussion he compared his position and the position of other men in the service with those of the Great Western in signal boxes on the Great Western line close by, and therefore the superintendent immediately after that meeting gave directions to the inspector who looks after men of that grade to find him a position if he could, and suggested that as an old man at Treherbert was about to retire and had asked for his pension that would be a good position in which to put him. It was offered to him and he did not exactly decline to take it, but rather objected. Then he fell ill and was ill for a great many weeks and eventually, to make a long story short, the post offered him was filled up, but he was promised the first vacancy, and the promise was kept. He chose to consider this ill-treatment and attended several meetings and said how he had been treated and so on. All these statements as I said before were absolutely without any foundation. In the result about a week or ten days before the strike he had an interview with the directors. They listened very carefully and sympathetically to him.

1113. (Sir Godfrey Lushington.) What had been done to him. He had been offered a better place?—He had been offered a better place.

1114. Had he been removed?—No, he had not been removed, but on account of his illness both the place which he occupied at Abercynon and the one which he had been offered at Treherbert had been filled up. Then the question arose what position to give him. He was not satisfied with the one which was offered to him and he appealed to the directors, but in the meantime he had attended several meetings of the men and they had taken up his case as one of alleged dismissal.

1115. (Sir William Lewis.) He was not satisfied with the wages that he was getting at Abercynon and he would not accept the better position in the adjoining valley?—He did not accept. Things were complicated by the man falling ill in the meantime and the place being filled up. Eventually the directors on my recommendation offered him the position of a relief signalman in the immediate neighbourhood of his home, so that he could keep his home intact. He would get increased pay, he would get paid for his travelling time, he would get a pass to take him about, and all the privileges which those men enjoy. But to the surprise of everybody he refused to accept. He said, "I have been very ill, and I am afraid I should not be able to get about." I then said, "Well, if you find after giving the position a fair trial that you cannot carry out the duties without discomfort to yourself, I will see that you are placed in a cabin that is a fixed position at no greater distance from your home than the box which you recently occupied." But to everybody's surprise he refused to accept that without, as he said, consulting his fellow men. There was a meeting held on the Sunday. This interview was probably on the Friday or Saturday of the week but one before the strike. The meeting was held on the Sunday and on the Monday morning he called upon the superintendent and said that he would be willing to take the position that was offered provided an undertaking was given to him that at the end of a month he would be reinstated in the box that he had formerly occupied.

1116. (Sir Godfrey Lushington.) May I interrupt you for a moment? I do not think it is perfectly clear. What was the very beginning of the action of the company towards this man? Was it your desire to improve him that made you initiate a proposal?—Certainly. The man had formed one of a deputation of signalmen to the superintendent when he said that he was dissatisfied with his position and he thought he ought to be getting more wages, and he instanced the case of a Great Western man (the Great Western and our line at this point run

side by side), near to where he was stationed. He said that the man was getting 2s. a week more. Thereupon the very same day the superintendent instructed the inspector to find him a place and said, "Treherbert will very shortly be vacant and you had better consider him in connection with this matter." That was offered to him and the wages were 3s. a week more so that so far from there being any question of dismissal or ill-treatment of the man promotion was actually offered to him.

1117. (Sir William Lewis.) But this had apparently no real connection with the dispute which had been fermenting for months previously?—No. They were meeting to discuss the terms of their service, the wages, and those matters which had been put before the superintendents a few days before.

1118. Now you have got down to August?—No. We have got really to June.

1119. But when he came back after his illness?—I rather anticipated dates in order to conclude the story with regard to him. I went on to the time of the strike. I think it was in June or July that the question first cropped up. He attended one of these meetings and told the story in his own way, whereupon the men decided that they would cease work; they would strike unless he was reinstated and it finally settled down into this position. The men insisted upon his being put back into the precise position that he had occupied before. Now that position had been filled up by a man who had been removed from another station and had brought his family, and so on, and, as I pointed out, you cannot cure one injustice by creating another.

1120. He wanted re-instatement but at a better salary?—They did not care so much for that. They thought that they had a good opportunity of compelling the company to do something, and although the point was apparently a very small one, yet involved in it was the whole question of whether the company or the Amalgamated Society should manage the company's affairs, and although he was offered the position I have referred to at an increased rate of pay he was not allowed to take it unless there was an undertaking that he should be at the end of a month replaced in the original box.

1121. So that apart entirely from these applications and meetings that you had held earlier in the year it really resolved itself into this dispute with Ewington?—That was the only reason assigned. When we came to close quarters, when Mr. Bell said that he had come down to take charge of the strike, he said in his letter that the strike was brought about by the company's treatment of this signalman Ewington. That was the only reason assigned. Perhaps I ought to finish the story with regard to Ewington by saying that the President of the Board of Trade (Mr. Ritchie was the then President) sent for the Chairman and myself being, of course, anxious to avert a strike. He also saw Mr. Bell. He was anxious that the company should agree to refer this question of Ewington to his arbitration. But the directors said, "No, we cannot refer any question whatever between ourselves and our servants to arbitration, but if you wish it when this trouble is over we will send you a statement of the facts in writing, and you can get whatever statement you like, if you wish to get a statement, from the man himself. We will ask you to say then whether you consider the man had any reasonable ground of complaint. After the strike was over that course was taken, and Mr. Ritchie found that there was no reasonable ground for complaint, particularly after the offer which the company last made to him to give him a position which would not entail the removal of his home. That was after the strike was over of course. As regards this alleged dismissal of Ewington, Ewington appears to have been in constant communication with Mr. Bell, who, on 2nd May (and that about fixes the date when this question arose), wrote to Ewington that his alleged dismissal was only what he anticipated after the result of the recent agitation, and he hoped that this action on the part of the company would open the eyes of the men. On the 18th June a resolution was passed by the Executive Committee of the society as follows—"That this meeting deprecates the result of the ballot of the South Wales railway men in the recent plebiscite to force the hands of the several railway companies located thereat in the fair request of right of representation before the management (that fixes the responsibility on the society at once, because by this resolution they say that the ballot was to force

Mr. A.
Beasley.
23 June 1904

Mr. A.
Beasley.
23 June 1904.

the hands of the several railway companies located thereat in the fair request of right of representation before the management), and view the fact as a retrogressive move reflecting no credit on those affected." Then on 29th June we heard through a local newspaper, the "Western Mail," that it had been decided by the representatives of the railwaymen's union to send out ballot papers again. On the same date Holmes issued a circular to the Taff Vale signalmen stating that: "A more favourable opportunity will never present itself and if you are dissatisfied with present conditions sign this paper and return it to me." On the 11th July the "Western Mail" reported a conversation with Holmes, who said he had taken a ballot of Taff Vale signalmen, and it showed that the whole of the men were in favour of joining hands with Barry except three. This man Holmes at that time was engaged in an agitation on the Barry Railway independently of the Taff Vale. On the 15th July, 1900, the Executive Committee passed this resolution—"That whilst we desire to express our satisfaction at the result of the Barry Railway dispute" (this agitation on the Barry I may say resulted in getting certain alterations made in the wages), "and compliment the society's officials upon their action, we express our strong disapproval with the methods upon which the movement has been initiated and carried on by starting the movement on non-society lines and ultimately requiring our support and assistance. We wish to impress upon our members that the tendering of notices to cease work without the executive's consent is directly contrary to rule, and if persisted in will debar our members from the society's financial support." The Barry agitation was one of several. There was one on the Port Talbot Railway, and one on the Brecon and Merthyr Railway, all of which had been more or less fomented by the man Holmes, and that minute no doubt referred to that. On the 29th of July a meeting was held at Pontypridd, of Taff Vale men only, at which Holmes was present, and it was there that Ewington first appeared at a meeting and this alleged ill-treatment of Ewington was, as I have already said, seized upon for inducing the men to give notice to leave the service of the company. Holmes at this meeting said that if they had the grit he had always been led to believe they possessed they would put down their tools unless Mr. Ewington was reinstated. It subsequently appeared from the papers which were disclosed in the action that Mr. Bell was kept advised of everything that was going on, not only by Holmes but by Ewington himself and Moses Jones, the signalman who first appeared on the scene as the representative of the men in the earlier part of the year. To Moses Jones Mr. Bell replied, on the 2nd of August, that the state of things reported by him was only what he expected and that the men on the last occasion missed the best opportunity they could have for some time. On the 4th August a local newspaper, the "South Wales Daily News," reported an interview with Holmes, in which he said, "we have no desire to resort to extreme measures, and neither do we think there is any necessity for doing so, but unless the officials of the company are prepared to meet us we have no alternative but to use the only weapon we possess and withdraw the labour of the men." He also said very much the same in a letter to a newspaper of the same date. On the 5th August, a meeting of firemen was held at Cardiff, at which Holmes was present, and he said "labour has never been so scarce or so valuable in the market," and he advised them to make the most of the opportunity and not sit down any longer as the serfs of the Taff Vale Company.

1122. Those were stokers?—These were the firemen who had previously not said they had any grievance at all. In point of fact, they gave their notices before making any application for increased pay or improved conditions at all. The notices went in first on the 6th August; 363 notices were handed in at the head office of the Company. Mr. Holmes accompanied the man who brought them to the door of the office, and the facts were reported to Mr. Bell the same day, as subsequently appeared from the correspondence. On the following day it was announced in the "Western Mail" that a committee room had been taken for use during the dispute. That is on the 6th August.

1123. (Sir Godfrey Lushington.) Would that be a week's notice or a fortnight's?—A fortnight's notice. The strike actually began on the 19th of August. This showed that it had been determined to have the strike. On the 7th

August the newspaper announced that a committee room had been taken for use during the dispute. It was alleged at the trial in November, 1902, that the Society, while admitting that the abortive agitation which ended in March was the work of the Society, had nothing to do with the subsequent agitation which culminated in the strike. On this point the statement of Moses Jones, made to the "South Wales Daily News" on the 8th of August, was to this effect: "This movement is really part and parcel of the one which was dropped in April last. The Executive of the Society was then greatly disappointed that the men, after putting the Society to much expense, did not act as they should have acted in the matter." On the 8th August Mr. Bell wrote to Holmes that he could not understand why the men should be so undecided as to their course of action, at any rate with regard to the date of taking action. This had reference to a misunderstanding as to sending in the notices. Holmes wanted all the notices sent in at once, whereas only 363 were given in at that time in August, the remainder of those who gave notice at all, about 400, being kept over to the 13th. Holmes, no doubt, knew that unless all the notices were sent in or terminated at the same time there must be some men who must either break their contracts or work with blacklegs while the notices were running out. On the 10th of August there appeared in the "Western Mail" an interview with Holmes, where he said, "There is a strong feeling that I, representing the Society, shall accompany any delegation to meet the management." On the 12th a meeting of Taff Vale men was held at Cardiff, at which two of the members of the strike committee, then already sitting, were appointed to attend a meeting of the Executive Council in London on the following Sunday, with a view of getting that Committee to support the strike. That was a proof I take it, that it was the determination from the first, that provided a sufficient number of men could be got to send in their notices there would be a strike whatever happened. After the strike was over, and when proceedings were pending with the Society, our solicitors, in the exercise of their judgment, took the statements of a large number of men who were concerned in the strike, with a view, if necessary, to calling them as witnesses in the case. One of the men, who acted as the Chairman of the Strike Committee, made this statement, or rather this appears in the proof of his evidence, which was prepared by the solicitors and signed by him: "In putting forward our case for assistance to the Executive." (I have just said he was one of the men that came to London to interview the Executive in order to get the Executive to give them pecuniary assistance—in other words, strike pay).

1124. (Sir William Lewis.) What is his name?—George Beadon.

1125. (Witness.) "In putting forward our case for assistance to the Executive, March and I were not in a very pleasant position" (March was the other man) "as we were applying to our society for assistance on behalf of members of the society who had broken all the rules of the society relating to the conduct of the movement. I cannot help thinking that if Holmes had been admitted before the Directors with the deputation on the Saturday we should have been in a still more unpleasant position than we were in meeting the Executive in London, and for myself I should not like to have been in the position of arguing the men's case simply on the conditions of service and Ewington." If Mr. Holmes had been admitted to the interview which the men had on the Saturday with the Directors the position would have been still more difficult. That showed that the only question really was the recognition of the Society, and that if the company had gone so far in the direction of recognition as to allow Holmes to be present at the meeting with the deputation his mission, he feared, would not have resulted in getting what he required, namely, the assent of the Executive Committee to a strike. The amount of recognition involved in allowing Holmes to be present was therefore not all that the men wanted. The importance of that extract is that it shows that the men had no grievances either as regards conditions of service or as regards Ewington, although he was made the pretext of the strike. Further proof of that is afforded by a letter from Holmes to the signalman Moses Jones, who was an active member of the Strike Committee, and whose name I have several times mentioned. I should like to read the letter,

because it shows that Ewington's case was absolutely a pretext. "Cobourn Hotel, August 13th, 1900." (Cobourn Hotel was the place where they had taken rooms for the meetings of the Strike Committee. This is dated August 13th, nearly a week before the strike):—"Dear Sir,—I cannot understand why you are working in the way you are. I tell you candidly it spells failure. Do you know only 190 notices of the signalmen have gone in, do you know how many have withdrawn; is this a sufficient number out of 250? Now don't misunderstand; the other grades are prepared to stand by Ewington, but not if you are going in the way you are. There are fifty signalmen not signed. Now we have considered this position, and unless you are prepared to work with the other grades I am to issue a circular on Wednesday. In the meantime we shall advise Ewington to accept the offer made by the company. If you are prepared to work with us then we will bring the men out on Ewington's case." You see at that time, the 13th August, they admit that an offer was made to Ewington by the company, and yet the strike was sought to be justified on the ground that Ewington had been dismissed from the service of the company. The letter goes on to say: "I got the fireman to send in their notices at their meeting last night on Ewington's case long before their demands are even sent in—but whether these take effect entirely now depends upon you, and I hold you as do the others responsible for what follows. We have the company beaten now, if there is a failure you, and you alone, will be held responsible. I ask you to personally consider the position. You are, with seven others, the Strike Committee. It was unanimously decided that the Cobourn should be the committee rooms. Come over and let's talk the position over, and I feel sure we can act together." That is the local representative of the society. Then further, bearing upon the Ewington question, the "Western Mail" of 20th August reports an interview with Holmes who said this: "The difference between what the company offered and what we suggested *re* Ewington is infinitesimal, nay, more, it is ridiculous." In the course of the proceedings Mr. Bell was questioned as to what his view of the Ewington case was. This is Question 5463 of the trial of the action brought by the Taff Vale Company before Mr. Justice Wills. Counsel said: "I ask you when you advised him" (that is Ewington) "to accept the offer, was it not because you thought it was a proper offer for the man to accept? (A.) I thought, at any rate, that it was a very fair compromise of a question in dispute. (Q.) And therefore there was no longer any ground for a strike about Ewington? (A.) Well, it had been greatly reduced at any rate." 5465. "Pardon me, if

you advised him to accept it, do you ask the jury to say that there was any longer any ground for a strike about Ewington?—(A.) In my opinion, the balance left in Ewington's case was not sufficient to warrant a strike." I have already shown that, as regards wages and the other conditions of the service, there was nothing in those to justify a strike, and, therefore, it narrows itself down, of course, to one point only—that it was the recognition of the union and nothing else that was sought for in these proceedings. On the 13th August, Holmes stated to a newspaper interviewer: "The men have decided that the whole question shall be narrowed down to a conflict between the company and the society, and I am empowered to insist that I shall be allowed to conduct the negotiations on their behalf." On this date 400 additional notices were sent in, making a total of 763 altogether. And again Mr. Bell was advised by Mr. Holmes of the fact. At a meeting which had been held on the day previous to that, Sunday, 12th August, "Letters from Mr. Bell and Mr. Thaxton, who was then the president of the society, were read, expressing the opinion that although the action of the men had been hasty in sending notices, the society would be ready to guarantee official financial support." On that day the firemen had a meeting, at which they determined to send in their notices in "support of brother Ewington," but, in order to give the notices a semblance of justification, it was decided to send in a programme for better conditions of service, and ask for an interview to discuss them. You remember that letter of Mr. Holmes which I read in which he said: "I have induced the men to send in their notices as regards Ewington before they had formulated their own demands."

Mr. A.
Beasley.

23 June 1904.

1126. (*Chairman.*) Have you got near to the end?—I cannot finish to-day if you wish to rise at the usual time. A good deal of time has been occupied in showing you that this was a society movement, that there was no dispute whatever with the Taff Vale men, and that the men really were not interested in the question except as members of the union.

1127. (*Mr. Cohen.*) You mentioned a programme. Can you put that in?—I can put that in if you wish. (*The programme was handed in. Vide Appendices, p. 58.*)

1128. (*Chairman.*) We wish to know what your views are on these various proposals for legislation?—I shall be prepared, I think, to answer any questions on that at the next meeting.

1129. (*Sir William Lewis.*) It will not be so much answering questions as saying what your views are as the Chairman invites you to do?—Yes, I quite understand.

THIRTEENTH DAY.

Wednesday, 29th June, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Baronet.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

(Mr. AMMON BEASLEY recalled and further examined.

1130. (*Chairman.*) Will you continue your narrative?—You may remember that I referred at some length last time to a case where a colliery was stopped in order to squeeze out the non-unionists. I have here a cutting from yesterday's newspaper which reports a speech made by one of the miners' leaders, the effect of which is that one of the largest collieries on the Taff Vale Railway, Lewis' Merthyr Colliery, is to be stopped for the purpose

of forcing into the union 107 men who are employed at that colliery and are not members of the union. I mention that as confirmatory of the statement I made.

Mr. A.
Beasley.

29 June 1904.

1131. (*Mr. Sidney Webb.*) When you say stopped, you mean that the men will be advised to hand in their notices and terminate their contracts in a legal manner?—That is what I meant.

Mr. A. Beasley. 1132. Do you suggest that that is objectionable—that it is beyond the rights of the men?—I do not suggest, and did not suggest, that it is beyond the rights of the men; but I mention that as illustrating the policy of the trades unions.

29 June 1904. 1133. But do you suggest that the policy is illegal?—I do not suggest that it is illegal.

1134. (*Sir Godfrey Lushington.*) Where does the extract come from?—From the "South Wales Daily News" of yesterday. I think I had got to the circumstances which led up to the Taff Vale Strike, and I referred to the fact that the firemen sent in their notices to cease work before they had actually put in their demands for such improved conditions of labour as they subsequently thought they were entitled to. I emphasise that rather with the object of showing, or supporting my view, that the men had no grievances on the subject of wages, and that the dispute, if there was a dispute, was really for the purpose of forcing the union upon the company. That the union and the officials of the union were kept constantly informed of what was going on is clear. I have already given some illustrations of what I mean, and I come now to the 14th of August, 1900, when the President of the union wrote to Holmes, the local organising secretary, a letter in which he made use of the expression that "the men appear to be facing the line well;" so that the president of the union obviously was in sympathy with the movement, although afterwards it was thought proper to say that the strike was instituted and carried on contrary to the wishes of those who are responsible for the government of the union. On this date, that is the 14th August, a meeting of the Taff Vale men was held, and Mr. Holmes addressed the meeting in a speech, in the course of which he said that: "The men have decided that the whole question shall be narrowed down to a conflict between the company and the society; and I am empowered to insist that I shall be allowed to conduct the negotiations on their behalf." At that meeting it was decided to call a further meeting for the following Sunday, the 19th, "To arrange for stoppage on Monday."

1135. (*Sir William Lewis.*) Had any notices been given in at that time?—Yes, some of the signalmen and some of the firemen and guards had given in their notices; altogether nearly 800 notices by that time were in. I have got the exact figures here.

1136. 800 out of how many?—Out of about 12,000 men who went out. The notice of the advertisement calling this meeting for the Sunday is this: "T. V. R. Dispute Amalgamated Society of Railway Servants. A mass meeting of all grades, Clarence Theatre, Pontypridd. Sunday, August 19, at 1.30 p.m. To consider the offers made by the directors and" (in large type) "arrange for stoppage on Monday." All drivers are specially invited. Every man off duty must attend this meeting. On behalf of the Committee, James Holmes, organising secretary." It was subsequently found, in the course of the proceedings, that that bill as well as others was paid for out of the funds of the union. That bill, of course, shows that at that time it had been decided that there should be a strike; it is obvious that they had made up their minds at that time that there should be a strike on the Monday; and that further appears from what transpired at a meeting between Holmes and the Cardiff Chamber of Commerce. The latter invited Holmes to a meeting in order if possible to prevent the strike. At this meeting Holmes refused to accept the suggestion made by the Chamber to apply the Conciliation Act of 1896; but subsequently he said he was willing to accept arbitration. With regard to the Conciliation Act of 1896, the "Western Mail" of 16th August reports him as saying: "The suggested intervention of the Board of Trade under the Conciliation Act was mentioned, but Mr. Holmes observed that it was now too late to put into operation such cumbersome machinery as that provided under the Conciliation Act." He also stated to the Chamber of Commerce, that if they were desirous of preventing a strike they must approach the Taff Vale Company; that his arrangements were such as to insure that the men would be victorious if a strike actually happened. Then on the 15th of August, which was again four days before the strike commenced, Holmes issued an appeal commencing: "Fellow workers," in which he said: "I have personally not one shadow of doubt as

to the result if the 800 men will only be true. We can settle this dispute in our own way, and I am decidedly of opinion that the best way to settle it now is, to stop the wheels for a few days; and in that case I have not the slightest hesitation in saying the question then must be settled by an official of the society, as was done in 1890." And on the same date he wrote to Mr. Bell a letter in which this passage appears: "If it comes to a fight, I have every confidence we can beat them and dictate our own terms in six days." At that time the chairman of the Taff Vale Company and myself were in communication with Mr. Ritchie, the then President of the Board of Trade, who invited us to come to London and see him on the matter. We knew then that he also had been in communication with Mr. Bell, and had endeavoured to induce him to bring about a settlement of the dispute if he could; and on the 18th of August, as the result of the communications made by him, Mr. Ritchie wired to Mr. Bell that a strike under the circumstances would be quite unwarrantable. This is the text of the telegram: "Very sorry" (it is evidently in answer to a telegram received from Mr. Bell) "but hope executive will endeavour to prevent strike which in my opinion is quite unwarrantable after chairman's proposal. Public opinion will I feel sure be against them."

1137. (*Mr. Cohen.*) What was the Chairman's proposal?—It was with reference to the man Ewington—that is the signalmen whose case I referred to on the last occasion. It was to offer him a place near his home, so that he would not have to break up his home. I think, by the way, I mentioned on the last occasion that there was an interview with the several grades of men, and that they were told that the representations they then made would be considered and a reply sent to them. That reply, or those replies, rather, because there were three letters sent, were sent on the 16th of August, but without waiting for those replies, without waiting to see whether the company did or did not grant the request made to them by the men, Mr. Holmes issued a circular to the companies' platelayers, who had taken no part whatever in this agitation, had given in no notices, and who so far as we knew, were perfectly satisfied with the conditions of their service, which was as follows: "Fellow-workers, you are doubtless aware that there is a dispute pending on the Taff Vale Railway, which in all probability will end in the guards, shunters, brakemen, signalmen, and engine-men withdrawing their labour. Having regard to the fact that we anticipate a severe conflict, we rely on the platelayers acting impartially between their employers and their fellows. No doubt that overtures will be made by the company to you in order that they might defeat the ends of their workmen; but fidelity, with and by the working men, will inevitably thwart the efforts the company is now making to demoralise their employees. We rely on your impartiality, and the day is ours. On behalf of the Committee, James Holmes." The object of that circular was to prevail upon the men not to do any other than their own work, not to assist in moving the points, for instance, or something outside the scope of their regular duties, notwithstanding that the effect of the strike was intended to be to stop the traffic. Then in further proof, if any were needed, that a strike had been determined upon no matter what the reply of the company might be, I have a letter here written by Holmes to the secretary of the branch of the men's union at Llantrisant, a place which is served by the Great Western and the Taff Vale Railway: "Cobourn Hotel, Cardiff, 16th August, 1900. Dear Brother,—I shall be glad if you will arrange for men to be on picket duty from Sunday next, to watch also trains, etc., and to make it well known, any man taking duty on the Taff now is a blabber. Let me know posts and list of names and duties. Yours, etc., Holmes." That would be on the Thursday before the Monday on which the strike actually took place. On the 17th of August, Mr. Holmes said to a reporter of the "South Wales Echo," an evening paper published in Cardiff: "If the company will receive me unofficially with the delegates, and consider the whole question, together with the reinstatement of Ewington, I am of opinion that the matter can be settled without a stoppage. Unless this is done the only alternative is to withdraw the labour. Of course we know we shall make ourselves amenable to the law, but we think the stoppage will bring us nearer a settlement than if the men came out in batches. Therefore, of two evils we

choose the lesser." Then on the same date an article appeared in the "Railway Review," that is the newspaper belonging to the union, warning men on other lines against accepting employment on the Taff Vale Railway. On the 18th August, two days before the actual strike, Holmes issued a circular warning workmen in other parts of the country to keep away, stating that all who accepted positions on the Taff Vale would be deemed "nothing less than blacklegs." On this day the deputation which the men were invited to send if they were dissatisfied with the letters which had been written to them on the 16th and 17th August, setting out what concessions in the shape of wages the company were prepared to make, attended at the Taff Vale offices. There were about a dozen men altogether, perhaps a few more, but they refused to discuss any matter whatever unless Holmes or the secretary of the local branch of the society was allowed to be present; and the interview was consequently abortive.

1138. (*Sir William Lewis.*) Did they represent each section of the workers?—Yes, I think each section of the men was represented on this Committee. I appealed to the men if they desired to continue in work, if there was anything that they wanted, that they thought that they might reasonably ask for to state it and it should have careful and respectful consideration. I urged them for their own sakes, for the sake of their families, for the sake of the company, for the sake of the public, not to take such a step as that, and not to insist upon what they knew beforehand was an impossible condition.

1139. (*Mr. Sidney Webb.*) Were you alone, did you alone meet the men, or were you accompanied?—Myself and one of my directors were there; I think only one of the directors.

1140. And your directors and you objected to the men having an adviser present?—They objected to anyone not being in service being present.

1141. The director representing the employers was accompanied by you as his expert adviser; but apparently he objected to the men being accompanied by any adviser not in the service of the company?—I prefer not to put it in that way, because that is rather, if you will forgive me for suggesting it, begging the question.

1142. But it was the case that your company did object to their being accompanied by anyone not in the service of the company for the purpose of advising them?—They could get plenty of advice.

1143. But not in the room?—Not in the room. Anyhow they knew it was an impossible suggestion. I have no doubt it was made on the advice of Mr. Holmes, for the purpose of preventing a settlement or forcing the union upon the company. On this same date the "South Wales Echo" reported an interview with Holmes, and stated that he had communicated with the miners and was assured of their sympathy, and that on receiving twenty-four hours' notice from the railway men's officials they would tender their own notices. After the interview Holmes wired to the Secretary, Mr. Bell, that I had refused to see him; that the deputation came out in a body; and that a strike was inevitable. (I have a copy of the original document here.) After the interview I was forced to the conclusion that the men had determined to strike; and I issued a printed circular to the men who had given notices, making an appeal to them individually to withdraw their notices, in these terms: "Taff Vale Railway. Cardiff, August 18th, 1900. Sir,—A number of the company's servants have given notice of their intention to quit the company's employ, and as some of the notices expire to-morrow night" (this was on a Saturday and the notices expired on the 19th) "I am desirous in the interests of the persons thus affected of giving them an opportunity of reconsidering their position before the notices actually expire. I am prepared to accept a withdrawal of the notices if such withdrawal be sent in on or before Monday morning, and I trust that many of the men who have been induced to send in their notices under a misapprehension will avail themselves of the opportunity thus afforded, failing which it must be understood that, whether they are subsequently engaged by the company or not, they have broken the continuity of their service and can only re-enter the company's employ on the terms that may be in force at the time. I believe that the wages paid by the company and the conditions of the service generally are

more favourable than those applying on any other railway. The staff of this railway, moreover, enjoy advantages which are not granted by any other railway company, and, without in any way seeking to control the action of any man in the service, I am bound to state my opinion that every person who has contemplated quitting it will do well to re-consider his action whilst there is an opportunity of doing so. If, unfortunately, you should be of opinion that the circumstances will not justify your withdrawing your notice, the wages due to you will be paid on Monday morning on your delivering up any property belonging to the company that may be in your possession. A. Beasley, General Manager." That circular was addressed to every man individually, and persons were sent out to deliver them at night. The men who were sent in to the Penarth district, or rather the district of Penarth Dock, were met by the local secretary of the union, and prevailed upon not to deliver the circulars which they had been instructed to deliver to the men to whom they were addressed, and they were not delivered.

1144. (*Sir William Lewis.*) You have not told us what actually took place at that meeting. Was the discussion as to your recognising the union, or was it on wages questions, at the meetings which took place between you and a certain number of men on the Thursday?—The discussion which took place then was entirely with regard to wages and certain other conditions of the service—primarily with regard to wages. I may state that after the men left we had, as promised, a very careful sit down and talk over the matter, and considered their suggestions; and as we found that within a few days the Barry and Rhymney Companies had in certain respects improved the position of their men, we agreed, in order to stop the dissatisfaction which had been expressed, to bring up the wages of our men of the same grades to the same level, notwithstanding that in other respects their position was superior to that of the other two companies I have referred to, and the letters which were sent set out what those concessions were. Then, on the Sunday, the executive committee of the union met in London, when they passed a resolution to support the strike financially; and the general secretary, Mr. Bell, sent a telegram to that effect down to a meeting which was being at the time held by our men at Pontypridd. This is the resolution: "That after hearing the evidence of the deputation from the Taff Vale Railway men and the correspondence relating to the dispute, we cannot but conclude first, 'That the men by taking action prior to obtaining the consent of this committee as most condemnatory.' 2nd, 'By removal of Signalman Ewington the management of the company has acted most arbitrarily, inciting the men to the present act.' 3rd, 'Having regard to both sides of the issue we, as administrators of the society, decide that every effort be made by the general secretary and others we may appoint to bring the dispute to a speedy termination. We, therefore, after careful consideration, decided to support them financially.'"—that means, to pay strike pay. At this meeting which was being held awaiting the receipt of that telegram, Holmes told a driver who was booked to run the mail train on the following morning, that "The job must stop to-morrow morning, and the mail can't run." "A driver said he was booked to run the mail early on the following morning, and he asked what was he to do as his notice had still seven days to run. (*Mr. Holmes.*) If you pass the resolution before the meeting that will answer your question. If you pass the resolution the job must stop to-morrow morning and the mail can't run. (*Loud cheers.*) The driver said that that being so he would abide loyally by the resolution and would not work on the morrow (*renewed cheering and waving of hats*) A fireman said he was also in a predicament. He was due to run the mail on the morrow, and before he decided to do anything he would like to hear something about the London Committee." As a matter of fact the mail train did run, because the company were able, by the means they had taken, to bring men into the service and employ every man available to run the train; but it did not carry the mails, because the Post Office had determined to send the mails by the Barry Railway; and there is a fact that I shall refer to hereafter with regard to that carriage of the mails by the Barry Railway. Then Holmes further said this: "If those men whose notices did not expire that day did not work on the Monday, they of course laid themselves open to prosecution, a fine, and

Mr. A. Beasley.

29 June 1904.

Mr. A. Beasley. possibly imprisonment. They could not all be locked up (*laughter.*) There was a danger both ways, and he would like to ask which was the worst—to stop work on Monday or stop it when they were put to work with blacklegs? He asked them to use their intelligence and vote conscientiously, and having voted, prove themselves to be what he honestly believed them to be—men and not traitors.” That is from the “Western Mail” of August 20th, 1900. Then during the proceedings this telegram was received from Mr. Bell, containing the substance of that minute which the executive committee passed. Then after the receipt of the telegram, Holmes addressed the men and advised them to come up in good time on the following morning, so as to picket at the stations; and he added this, “Let them not come within the limits of the law, but of course there were many ways of persuading men. He appealed to every man to give his name as a member of the Society, and he thought the best thing to do would be to emulate the miners and refuse in future to work with men who were not members of the organisation.” Then we knew that some days before this some rooms had been taken at a hotel in Cardiff for the purposes of the strike committee, some days before the strike actually took place, and we were told that that night, the Sunday night, these rooms were kept open all night and that the men with Mr. Holmes were busy making arrangements for their picketing. I have no doubt myself that all the arrangements for picketing were completed some days before the strike began, because on that same night, Sunday night, when I went home myself, I found pickets around my lodge gates, and they remained there; of course they were relieved but pickets were always there during the whole time of the strike. That really commenced before the strike began. Then on the following morning, the 20th of August, it was found that 1,227 men had ceased work, of whom 356 had worked out their notices, 465 had worked out only one week of their notices, and 406 had given no notice at all.

1145. So that there were above 800 men who had broken the law then?—Yes, really 871. On the morning of the 20th, Mr. Holmes found that the mails, which the Post Office had not on that morning delivered to us because they were afraid we should not be able to carry them, had gone by the Barry Railway, and he sent this telegram to the manager of the Barry Railway: “Report that mails carried by your railway. If repeated I will call Barry men out.” This was a threat to stop that railway.

1146. (*Chairman.*) Did the Barry Railway continue to carry the mails?—They did not; they only carried the mails on that one day; not because they refused to carry them, not because they were deterred by this threat, but because the Post Office themselves, fearing, I suppose, that the railway would be stopped, made an arrangement to carry the mails by road; and in consequence of the strike we were in default for the conveyance of mails under the contract, and we had to pay the Post Office subsequently for the conveyance of the mails by road. I think altogether it amounted to about £160 that we had to pay as a direct consequence of the strike. The manager of the Barry Railway, I may say, produced the original telegram on the trial of the case in December, 1902. In the course of the day Mr. Bell arrived in Cardiff to take charge of the strike, and on arrival he made a speech to the men, in which he said “He had come there with the determination to fight.” Possibly you will remember that the resolution which was passed by his committee says, that they decided that every effort should be made by the general secretary and others whom they might appoint “to bring the dispute to a speedy termination”; and in Mr. Bell’s answer in the proceedings which were subsequently brought against him, he said that he went down at the instance of the Board of Trade to try to settle the strike. He had been down in the middle of that week for the purpose, as we understood, of seeing Ewington and trying to persuade him to accept the offer which the company made. Mr. Bell, as I say, made a speech on his arrival in Cardiff, in the course of which he said: “He had come there with the determination to fight . . . he did not wish to say anything to irritate the situation, but he must say that if the other companies assisted the Taff Vale Railway he would have no other course open to him but to call out the other men to assist the Taff Vale railwaymen.”

He further said that on the previous Saturday he received a telegram “to the effect that some men were inclined to go to the Taff Vale Railway.” (That was in response to circulars and advertisements which we had issued.) “He wired that under no circumstances were they to go, and he had received a reply saying that they had decided not to go.” He further said, in the course of that speech: “He trusted that the men would do their utmost to secure any who might be brought into the town to fill the places of those who had gone out. He had no fear that there would be any number of ‘black-legs,’ although, of course, the company might succeed in getting a man here and there.” Then he went on to say: “The reports presented to him since his arrival gave him very general satisfaction—indeed, it was more than he expected to find such a complete stoppage in such a short time. (*Cheers.*) All they had to do was to maintain their position, and as long as they did so there was no possible fear of the result.” (*Cheers.*) I read those passages to emphasise the fact that this man said he went down to Cardiff really as an emissary of peace. On the same day Mr. Bell wrote me a letter in which he set out what he chose to say was the cause of the strike: “Railway Hotel, Great Western Approach, Cardiff, 20th August, 1900, *Taff Vale Railway Strike*. Sir,—I desire to inform you (though you have doubtless been made aware by Press reports) that the dispute as now existing between the employees of the company and your directors was represented to the executive committee of this society at a special meeting of that body held at the head offices yesterday. My executive committee, after careful consideration occupying their attention for over six hours, came to the conclusion that the men had been incited to their present action by the treatment meted out to Signalman Ewington of Abercynon, by Mr. Harland” (that is the superintendent of the line) “filling up his post (Pontcynon Box) during his brief absence on sick-leave, an act unknown to have been previously committed by any other railway company in the United Kingdom, thus causing them to believe that it was an attempt to victimise him for acting as the men’s representative in the recent agitation for improved conditions of employment. They further decided to support the men in their action, and have instructed me to take charge of the movement with a view of bringing it to a conclusion. I therefore respectfully beg to inform you that all future negotiations are to be dealt with through me, and that I shall be pleased to receive for consideration any overtures your Directors may have to make, with a view of bringing the dispute to an amicable and satisfactory settlement. I further express the hope that this may be done early before any bitterness of feeling has been introduced into the movement. Communications may be addressed to me at the temporary address above. I remain, yours faithfully, RICHARD BELL (General Secretary).” You see that the only reason assigned for the strike was the treatment meted out (as he terms it) to signalman Ewington; but before that letter was received by me, in fact before it was written, the outrages had begun: because before noon on that day, a gross attack was made upon a train at Pontypridd. The strikers took the driver and fireman from the engine, violently assaulted them, tied them together, and marched them through the streets of Pontypridd as prisoners to the Society’s committee-room or lodge room, at Pontypridd, whence they were afterwards taken to the headquarters at Cardiff which were also the headquarters of Mr. Bell and Mr. Holmes. I do not propose to trouble you at any length with details of these outrages, but I ought to mention some of them, I think. You will bear in mind that by the stoppage of the railway, the collieries were all stopped, and there were probably 100,000 men, colliers, out of work in consequence. They were all sympathisers with the strikers, and although I do not suggest that any of the outrages were committed by the colliers, yet it is evident that a shouting crowd of many hundreds and, in some cases, thousands of men, at different points, had the effect of intimidating our men to a very considerable extent, and rendered it necessary for us to send a body of policemen with every train which we were able to run. I have referred to one of these outrages, and I propose to refer to one or two others which are set out in the statement of claim in the action which subsequently took place: “On the night of the 20th of August” (that is the first night of the strike), “and the early morning of the 21st August, 1900, the

gate of the carriage and wagon sheds of the plaintiffs" (that is, the company) "at Cathays was violently burst open by an organised body of pickets, and the plaintiff's watchman, Isaac Crocker, violently assaulted and removed from the plaintiff's premises, for the purpose of compelling him to abstain from following his employment in the plaintiff's service." The reason of that attack was that by that time we had been receiving men who had applied to us for employment, and who had been provisionally engaged to come. We had, during the Sunday night and Monday, cleared out and fitted up two large workshops with about 415 beds and the necessary conveniences for the men—kitchens, and such like. During the day (Monday of course) this furniture was taken in, and had to be drawn through the town. Some men attacked one of the vans containing bedding, ripped open the bedding, and kicked the contents about the street; at night some men came in, and an organised attack was made upon the place on that same night, under the circumstances which I have just described, and which were put before the Court. Subsequently, we had to have a staff of men in charge of one of the company's officers each night, and we had a searchlight put upon the building and almost to stand a siege; and had we not had it I have not the smallest doubt we should have lost a great many of the men by strikers getting into the building and either forcing them or persuading them to go out. I said that all the men who came were provisionally engaged; as a matter of fact, the men who came and worked were paid from the moment they started on their journey to Cardiff. I mention that as a fact of importance, as showing that the men who were persuaded to go away, and in other ways forced to go away, all broke their contracts. In order that there might be no misunderstanding on the part of any man whom we engaged—I think I said on the last occasion there were about 2,000 men engaged provisionally out of the 5,000, who applied—a printed circular was sent to every man on the night of Sunday. As soon as we heard that the union had decided to support the strike, we knew that the strike would take place, and we sent this circular ordering these men to come on. This was the circular: "If you decide to come here in accordance with your application we will start you at work at once, and, if suitable, will place you on the company's regular staff. The conditions of service are as follows" (the important part of the circular is this): "So that you may not come here under a wrong impression, I wish to state that the vacancies have been caused in consequence of the staff in the grade named having sent in their notices. Ample arrangements will be made for the protection of men who come here for duty, and they will be provided with free quarters for the first fortnight and for so long thereafter as the company considers necessary." Then there is a notification at the foot: "Take your ticket to Cardiff (Great Western) station; wire by what train you expect to arrive here, and you will be met on arrival by a Taff Vale inspector in uniform, who will see that you are conducted to your lodgings. *Do not leave the station with any other person.*" I read those passages because it was subsequently suggested that when men were taken out of the train at the Cardiff Great Western station, and induced to go away with the strikers, the strikers simply went to communicate to these men information of the fact that a strike was in existence. Every man knew before he came that there was a strike, and that that was why he was going there, because there was a strike. Then "on the 21st August, 1900, the premises of the plaintiffs at Cowbridge were watched and beset by organised pickets for the purpose of preventing one Thomas Williams, an engine driver in the employ of the plaintiffs, from performing his duty in their service as he desired to do, and the said Thomas Williams, on avoiding the pickets at Cowbridge, and proceeding to Cardiff, was met by another body of organised pickets sent out for the purpose of intercepting him and preventing him from so working. On the 22nd August, 1900, a body of pickets, with a view of preventing one Thomas Richards, an imported labourer, from fulfilling his engagement with the plaintiffs as a signalman, entered one of the plaintiffs' signal boxes near Roath Junction, and violently removed the said Thomas Richards whilst on duty in the box, and forcibly conveyed him to the district headquarters of the defendants at the Cobourn Hotel, Cardiff, where he was detained and efforts made to dissuade him from working further for the plaintiffs." I think that was the case where they kept the

man all night in the headquarters of the union. Then I have here a list of fifty-five other cases which were set out in the statement of claim, and the majority of which were actually proved at the trial, and certainly all either proved or admitted in the trial for damages before Mr. Justice Wills in December, 1902. I only propose to trouble you with a few of them.

1147. You have told us there are fifty-five?—Yes.

1148. Is not that enough without getting them down on the notes. If you particularly wish it you can put in the paper?—Very well.

1149. (*Sir William Lewis.*) Are there any special circumstances relating to any of them?—The first I have marked here is this: William Cook, an engine driver; men called at his house on the 19th of August to persuade Cook not to work. He was called for duty on the 20th, and started for the Ferndale sheds. He was met by men who tried to push him back. A policeman appeared and took him to the sheds. On the 21st August (that was the second day) he went to work; eight men got over a fence and rushed for the engine, held Cook and pushed his head back, and wanted him to drop the fire out; Cook caught hold of the string of the whistle and pulled it and a policeman ran up. The house was picketed for four days. On the 23rd Cook was on the engine and stones and rotten eggs were thrown at him, the fence around the station was broken and the strikers attempted to reach the engine; they were kept back by a policeman. He had to send his wife to Cardiff and live himself in barracks, because he was afraid any longer to remain there. After the strike the men would not speak to him. There are many similar outrages, but I will not trouble you with any more, because I have indicated generally what the kind of thing was. (*A list of the outrages was subsequently handed in. Vide Appendices, pp. 59-62.*) During the whole of this time pickets were at work not only at Cardiff but in London, Liverpool, Manchester, Glasgow and other places by the society's agents, who were also subsequently proved to have been paid by the society; and a large number of men were prevented or were induced to refrain from entering the company's employ while others were induced to withdraw or so terrorised that they were afraid to go to work. I have here a volume of extracts from the accounts showing the disbursements of the society during the strike, which were abstracted from documents which were put in in the course of the action. This shows a large number of disbursements for sending men back, and most of them were disbursements made by Mr. Bell himself or by persons acting under him at the headquarters of the strike. There is "Blacklegs to London and assistance £28. One Blackleg, fare and refreshments 15s. 9d; two Glasgow blacklegs, £2 15s. 9d., and so on. Altogether I think I counted up that they sent back about 180 men who had, as I have already shown, been engaged, by the Taff Vale company to come into their employment. Mr. Bell himself took an active part in the work, and telegrams and other communications were produced at the trial, containing orders and directions to his subordinates to prevent men from working. I just give two examples of those. On the 22nd August, Bell telegraphed to Pontypridd, the headquarters of the society: "Men solid. Expect train run by blacklegs;" that was warning them that a train was on its way up driven by blacklegs, and to incite them to look out for the men. On the same day he wired to a man named Dobson, who was one of the organising secretaries of the society, brought down from another part of the country, to take part in the operations: "Llantwit and Llantrissant Junction boxes open; get these men out." That was a direction given by Bell to one of his subordinates on finding that one of the signal boxes was open and the men at work. I have said that we had to employ the police very largely. We availed ourselves of the services of every policeman who could be spared; they were drawn from other parts of the country, and in addition a number of police were drafted from Bristol and Gloucester into the district. Of course we had to pay the expenses of those men, or a large part of their expenses.

1150. Did Bell supersede Holmes, because you have said nothing about Holmes since the strike actually commenced?—Bell said, in his letter, you will remember, that the conduct of the strike had been placed in his hand and that any communication was to be addressed to him, but subsequently in a document that was published by

Mr. A.
Beasley.

29 June 1904.

Mr. A.
Beasley.
29 June 1904.

the man Holmes—Holmes and Bell, I may say, fell out over this strike subsequently—Holmes said in this document, which I have here, that when Bell went down to Cardiff to see Ewington, at the instance of the President of the Board of Trade, presumably with a desire and intention to settle the strike if he could—

1151. That was before the strike?—That was before the strike, about the middle of the week before the strike—Holmes alleges that he and Bell then made up their minds that there was going to be a strike, and Holmes said that at Bell's request he resigned the management of the strike into Bell's hands. We have got now, I think, to the 22nd August. On that same day Mr. Bell sent a telegram to the Barry Company calling upon them to stop their trains coming on to the Taff Vale line at Cogan Junction; that is near our dock at Penarth; that is the point where the Taff Vale Company had a loyal signalman who enabled them to keep the junction open. On the same night a meeting was held at Barry of the Barry railway men, at which the Barry men were urged to strike if they were called out by Mr. Bell. Mr. Holmes said, "they had no desire to stop the Barry railway, but their committee had been with himself in serious consultation three or four times, and they would hesitate before taking the final step to stop the wheels on the Barry railway, but he was satisfied that if the order came from Mr. Richard Bell to the men here"—that is at Barry—"that as one man they would step off the foot plate and leave the engine and come to the rescue of their brother trade unionists;" and then he went on to say, "They felt that unless the blackleg at Cogan Junction was got out of his box the Barry company had no right to take passengers into Cardiff that would otherwise go on to the Taff Vale."

1152. That is to say, that they were not allowed to exercise their running powers over that portion of the Taff Vale railway?—That is what they threatened them with—that unless they stopped their trains which run over the Taff Vale Railway and which were only able to run by the loyalty of this signalman they would call the Barry men out. I notice that at that meeting Mr. Holmes referred to some of the loyal men on the Taff Vale Railway: "At present," he said, "only three or four engines were being driven on the Taff Vale Railway, and those by men who had been members of the Amalgamated Society of Railway Servants, for upwards of twenty-five years. He did not think that these men would continue to be employees on the Taff Vale Railway after the conclusion of the strike, nor did he think they would continue to be members of the society;" and then he went on to say: "work at Penarth Dock signal box"—that is Cogan Junction to which I have already referred—"was being done by men who he described as scabs and humbugs. He was a religious man, but he should object to worshipping side by side with such people." That is from the "Western Mail" of 23rd August, 1900. Then we come to what was really the cause of the action taken by the Taff Vale Railway against the society. At 2.30 a.m., on the 23rd August, Bell and a number of pickets went to the Great Western Station at Cardiff and induced a number of men who had come down to join the Taff Vale service to leave the train and go to the society's headquarters, where they were fed and lodged and the following morning sent back to London by Bell himself, who paid the fares and supplied them with money. I have read from this book of extracts, from Mr. Bell's account, that he paid £28 for 28 blacklegs sent back to London on that day. Mr. Bell took with him a printed paper which he had evidently had printed after his arrival at Cardiff, and he put this paper into the hands of the men who had come down to take service with the Taff Vale Company. This is the document: "Strike on the Taff Vale Railway. Men's headquarters, Colbourn Street, Cathays. There has been a strike on the Taff Vale Railway since Monday last. The management are using every means to decoy men here who they employ for the purpose of blacklegging the men on strike. Drivers, firemen, guards, brakesmen, and signalmen, are all out. Are you willing to be known as a blackleg? If you accept employment on the Taff Vale that is what you will be known by. On arriving at Cardiff call at the above address, where you can get information and assistance. Richard Bell, General Secretary." That is the episode which led to the proceedings being taken against Bell and Holmes and the union. On the previous day the company's solicitor and myself, having

regard to the number of outrages which were taking place, were very anxiously considering how we could put a stop to them. I suggested to him that there were certainly some means whereby the union which was paying the men who were committing these outrages could be got at, and he was rather of opinion that there must be some overt act on the part of an official of the union before any proceedings could, with any success, be taken. On the following morning we were supplied with the necessary material for taking proceedings, and writs were immediately issued against Mr. Bell and Mr. Holmes and against the society. That was the foundation of the Taff Vale case which has excited so much interest, and I think I may venture to say that if it had not been for that episode there would have been no Taff Vale case at all. Bell of course was going on in the meantime carrying on the strike, and was sending and receiving messages and letters; and on the 23rd August this letter was sent—it was not signed by him but his name was put to the letter, and of course when it was produced in court the judge held that he was responsible for what was done in his name and under his direction: "Cobourn Hotel, Cardiff, Taff Vale Dispute, 23rd August, 1900." This letter is believed to have been addressed to the secretary of the local branch of the society in Aberdare: "Dear Sir, Yours of the 22nd to hand. Everything here working very satisfactorily. Dispatched two brakes loaded with blacklegs successfully this morning." (Those were the men who were got out of the train at the Great Western Station). "The public of Cardiff are lending us assistance in this direction. The committee are now sitting. We have two men gone to Paddington on our behalf. We have four men gone to Newport on our behalf. Are you going to send two to Hereford and other places, so as to reduce the pressure here with picketing. We don't think you will have much trouble up there with this scum of hell, and hope you won't; keep your men well to the line and tell them everything indicates assured success shortly. Kind regards, Richard Bell, per G.M.B." On the 24th August the "Railway Review" said: "We hold that the company are making the gravest mistake possible in not having consented at the outset to meet the officials of the amalgamated society. The probability is that had they done so the present dead-lock would never have arisen." On that date the 24th Mr. (now Sir Francis) Hopwood went to Cardiff and opened up negotiations with the company and with Mr. Bell, with a view to bringing about a settlement of the dispute; but either the men had got out of hand and would not agree to the terms suggested by Sir Francis Hopwood, or Mr. Bell did not recommend them for acceptance, as the attempt at conciliation failed. On the 25th, the day after Sir Francis Hopwood came down, Mr. Bell addressed a meeting in one of the parks at Cardiff, to which there was a procession of working men with bands playing and flags flying, when he said—"He hoped there would be no cave-in but a determination to die rather than surrender." He had had an interview with Sir Francis Hopwood on the previous night at which Sir Francis had discussed with him the terms which he would be inclined to recommend his men to accept, but that speech on the following day does not quite support the suggestion that Mr. Bell was there as an emissary of peace. On the following day, the 26th August, which was Sunday, Mr. Holmes addressed a further meeting of Barry men, at which he said—"He had come to ask them to do a specific thing, to define a clear line of action, viz., to pass a resolution that if Mr. Bell told them to answer the call to arms they would be prepared to come out and support the Taff men. There was one thing that he asked them to do and that was, to pass a resolution that they would come out if wanted; but he did insist that they would not touch traffic that had been handled by blacklegs on the Taff Vale Railway." I may say that a similar appeal was made on the same day to the Rhymney railway men by Mr. Bell himself, who said: "The Rhymney men he believed—and he spoke with experience—could not help the men by withholding their labour at present except by continued refusal to assist the Taff Vale by not handling blackleg traffic." I may say that both the Barry men and the Rhymney men acted upon that advice and refused to touch any traffic taken by the Taff Vale company to the junctions of those respective railways. I may further say that during this time we were getting an increasing number of men, and every day were running more and more trains.

Up to the Thursday we contented ourselves with running passenger trains, but on the Thursday, as we had men and engines, we determined to endeavour to run some mineral trains; and on that date we did run two mineral trains, and each day subsequently we ran an increasing number of trains.

1153. So that you were actually dealing with the traffic of these two companies who have junctions with you; and consequently if the Rhymney and Barry railways stopped they would necessarily stop the remainder of your men?—We did not carry any traffic, knowing that the men would refuse—that they did refuse and had refused to touch the traffic brought down to them; we confined our operations to bringing traffic down to Cardiff and Penarth, because we were anxious to avoid creating any trouble for our neighbours, the Barry and Rhymney Railway Companies, whose men would certainly have come out if we had attempted to force traffic upon those two railways. I was going to say that owing to the number of men who were besetting the line at all points, colliers and Taff Vale men and others, we were not able to run any trains except by daylight. We were afraid to send men out into the district when we could not give them adequate protection at night; so that the trains, although we ran an increasing number, were all run during the day for that reason. Then on the 28th August the Chairman of the Strike Committee—a man who was then and still is in the service of the Taff Vale Company—at a meeting of the men on strike, said that: “Acting on the advice of the officials of the men’s Society the Executive Committee consented to abandon the right to direct representation, as it was clear that to win it a prolonged struggle would take place;” that is to say, that the men by that time had begun to see that the company were working their railway, though with difficulty, and were getting better every day. A number of men we knew were anxious to come in, because our stationmasters and others were besieged with applications from men to know if they could return; but each man was afraid to be the first to do so; so they decided that they would abandon the question of representation and come themselves to see the directors and see whether any arrangement was possible. That step which they took in, as it were, throwing the union overboard was not approved of by Mr. Bell, who in a subsequent report to his Committee, said this: “For five days Mr. Hopwood worked indefatigably to try to bring about a settlement satisfactory to the men. On Monday, the 27th, when full consideration was given by the Committee to the above-mentioned terms” (which are set out) “and the situation was discussed fully, the Committee agreed to drop representation and adopted a resolution, ‘That Mr. Hopwood be asked to write to Mr. Vassall, the chairman of the Company, to see if he would receive a deputation to discuss the terms offered through Mr. Hopwood, and other matters appertaining thereto, on condition that they would drop the question of representation, and with a view of returning to work immediately after the interview.’” “I pointed out to the Committee,” Mr. Bell goes on to say, “at the time the vagueness of the resolution, and also the fact that the condition contained therein was such that representation could not again be raised if the directors met the Committee. This of course, the directors readily accepted, and granted the deputation an interview. I felt that it was entirely a mistake for them to go to meet the directors at such a juncture, and felt sure they could not get any better terms than Mr. Hopwood would be able to extract. Unfortunately, this proved to be only too true, and the men returned more exasperated than before.” That is an extract from the report made by Mr. Bell to his executive committee, which was disclosed in the course of the subsequent proceedings. Then at the meeting at Pontypridd, held on the same day, of the men out on strike, a member of the Committee, a man named Moses Jones, the signalman to whom I have referred before, said this: “If the railway companies of the Kingdom wanted a fight on this question of representation this was the golden opportunity for it, so far as railway men were concerned, for they had the sympathy of the public and trade was prosperous.” On the 29th, Sir Francis Hopwood returned to London, having failed to get the men to come to any settlement; and on the same date Mr. Bell, accompanied by Holmes and other members of the Committee, had an interview with Sir William Lewis and asked him to intervene; on this

and the following day interviews took place between Sir William Lewis and myself, and the men agreed to come in on practically unconditional terms, except that the company promised that the men should be re-instated within one month, instead of two as had been previously suggested. When I say that they came in on practically unconditional terms, I meant rather that they came in on the terms which were in force before they went out on strike. No change, no concession of any kind was made except that we would take the men back, all of them, within one month. On the 31st August, on the day that the settlement I think actually took place, the “Railway Review,” in an article headed “Taff Vale,” said: “It is not the A.S.R.S. alone whom the companies will have to fight. The struggle has evidently now to go on, and we rely on the support of the trade unions not only of the district but all over the country to assist in maintaining the traditions of labour unimpaired”; and on the 29th August the chairman of the Strike Committee said at a meeting: “They had only abandoned the principle of representation for the present. If that principle was not brought to the front even then by the Taff Vale railway men it would be at no future date. Direct representation they would have.” The “Railway Review” in a further article said on the same date: “The men have as much right to elect their representatives as shareholders have to have their own spokesman in the general manager, and until this claim is met the companies are only laying up trouble for themselves and for the country; but we repeat the society will take up the challenge in its own time and in its own way.” On the 9th September Mr. Bell made a speech at Stockport, which is reported in the local newspapers, in the course of which he said, “Railway workers were at present not in a sufficiently organised state to enter upon a general strike, though strong enough to harass one or two individual companies and inconvenience the public.” So the men returned to duty, and I need scarcely say the company has loyally carried out its terms; for instead of getting the men to wait for a month, they practically took all the men back as soon as ever they applied for re-instatement; and as some thirty or forty of them within the first week had not applied for re-instatement they were sent to and individually told that they could return. For the purpose of making a sufficient number of vacancies for the men to come back, they arranged with a number of the men who came to them during the strike and who were willing to go back for a money payment, and a number of the men were induced to return to their work.

1154. A number of strangers?—The company treated them exceedingly handsomely; I think in fact every man was absolutely satisfied; the majority of them said that if ever the Taff Vale Company got into trouble again, and they wanted their assistance they would only be too ready to come. So that we are in the position at this moment of having a considerable number of men upon our books who are acquainted with the railway, who know the road, as we call it, and who would be prepared to come at any time if a strike occurred again. But, of course, we were bound to retain all the men who were competent and who were desirous of remaining; and we did so; and that was a source of very considerable trouble which very nearly led to another strike before the men settled down. In a letter which I wrote to Sir William Lewis on the 30th August, 1900, in reply to a communication from him, this passage occurred: “It is understood that in offering to take back the whole of the men the directors have retained an absolutely free hand with regard to the men by whom the railway is now being worked.” An attempt was made by the man Holmes to show that the company in agreeing to take back the whole of the men within a month had thereby pledged themselves to get rid of the whole of the men who came to work during the strike; and it was stated that they never understood that that condition was made, and some of the men roundly stated, and put it into writing in documents which I have here, that Mr. Bell, in communicating the terms of settlement to the men, did not read to them that sentence in my letter. Of course, I know nothing personally about it; I can only say what the men themselves have said; I only refer to it because it was the cause of a very serious amount of trouble which about Christmas time very nearly culminated in another strike, and would have done so, I have no doubt, if the executive of the union had not put their foot down and

Mr. A.
Beasley;

29 June 1904

Mr. A.
Beasley.
29 June 1904.

stopped it. I think I have already referred to this man Holmes as being a man who was rather violent in his language. I have got here a report in the "Western Mail" of the 1st September, in which he told the men (this was on the very day that the strike was ended): "His advice to blacklegs would be, not to wait till the company got rid of them, but to get rid of them themselves as quickly as they could (*applause*). The men should treat them as lepers and nothing else . . . He would advise the men not only not to speak to these strangers, but not to handle anything after them for fear of contamination. If after the month had expired these men had not cleared out, this dispute would assume a much more serious aspect than it had hitherto done." I see on the 27th December he addressed a meeting and said: "There would never be peace on the Taff Vale until these men are gone"—referring to the blacklegs. The directors accordingly published a statement on the 7th January, 1901, in which all the facts were set out; and on the 28th January a deputation of Taff Vale men waited on the directors to urge that the imported men should be got rid of. The directors declined, and insisted that the terms of settlement had been carried out in the most liberal spirit.

1155. (*Mr. Cohen.*) You say that the executive of the trade union prevented any further strike?—Yes, they did. They were urged to sanction another strike, but they declined to give their sanction to it. Now I have gone through those facts in order to show, as far as I could, and as well as I could, what the origin of the strike was, and also to show that there was no grievance with regard to wages; there was no grievance with regard to Ewington, although his case was put forward by Mr. Bell as a reason for the strike in the letter which he wrote to me on the first day of the strike; and that the only ground was the desire to get the union recognised by the company, or, I may put it, the determination on the part of the executive committee to force the company to recognise the union. In the report issued by the Board of Trade on strikes and lock-outs for the year 1900, a reference is made to the Taff Vale strike in this manner: "The Taff Vale Railway trouble arose out of the alleged dismissal of a workman, but was mainly for the recognition of a trade union." I have referred to the writs that were issued against the two secretaries of the society, and the society itself on the 23rd August; and on the 28th August the application for the injunction (we also applied for an injunction to restrain these people, the society, from further interfering with our men) was heard by Mr. Justice Farwell, the vacation judge in chambers, and adjourned by him to be heard in open Court on the 30th August, on which date an interim injunction against Bell and Holmes was granted, the judge reserving his decision upon the application against the society. On the 5th September he granted the injunction as prayed against the Amalgamated Society, and made an order dismissing an application which the society had made to be struck out from the proceedings. On the 7th September (two days afterwards) notice of appeal was given on behalf of the society, but not by Bell and Holmes. The appeal came before the Court of Appeal on the 21st November, when the decision of Mr. Justice Farwell was reversed on both points; on the ground, it seems to me (and I have no doubt you have had that point before) not that a trade union could not be sued, but that it could not be sued in its registered name; I do not think the judgment goes any further than that. The Master of the Rolls says, on page 78, "There can, in my judgment, be no doubt that at Common Law the defendants could not be sued in the name in which they are sued in this action, any more than a tradesman could sue a defendant in the name of a West End Club for goods supplied by him to that club, for the simple reason that the name of a club is not the name of a corporation, nor of an individual, nor of a partnership, which apart from statute, are the only entities known to the law as being capable of being sued." Then, on the top of the next page, he says: "There is no section empowering a trade union to sue or to be sued in its registered name." Then, further on, he says, "When once one gets an entity not known to the law, and therefore not capable of being sued, in my judgment to enable such an entity to be sued an enactment must be found, either express or implied, enabling this to be done, and it is not correct to say that such an entity can be sued unless there be found an express enactment to that effect. Where in the Trade Union Acts is to be found any enactment, express or implied, that a

trade union is to be sued in its registered name?" Then, again: "It is not enacted in this charter" (he calls the Acts of 1871 and 1876 the charter of trade unions) "that a trade union is to be liable to be sued in its registered name, as contended for by the plaintiffs, so that they may take the funds of the union in execution. Such a liability is not to be found in the Acts." Then I think, finally,—almost the last extract—he goes on to say: "I can find nothing in the Acts wherefrom the inference is to be drawn that the legislature has enacted that a trade union can be sued in its registered name, but by reason of the language of the Acts and what is omitted therefrom if necessary I should find the exact contrary. In my judgment for the reasons above, a trade union cannot be sued as is now attempted." So that that appears to be the only judgment—that the union could not be sued in its registered name.

1156. It is not suggested that it could be sued in any other way, in that judgment. The only question was whether in that case the union was registered?—The union was registered, no doubt, but the proceedings had been taken in the registered name or popular name of the union, "The Amalgamated Society of Railway Servants." But when the company appealed to the House of Lords against this decision, the reasons assigned by the union went a good deal further, it seems to me, than the effect of the judgment of the Master of the Rolls. The first of the reasons assigned is this (and it raises the whole question): "Because the respondent society, not being a person, firm or corporation, and not being a body rendered capable by Act of Parliament of being sued, cannot be sued in respect of the acts complained of by the appellants." Therefore the judgment of the House of Lords went further than the judgment of the Master of the Rolls.

1157. (*Chairman.*) You surely are not under the impression that a judgment of the House of Lords can be read as affirming one way or the other necessarily the reasons which are set out in the pleadings of the pleaders. What you call the reasons, you know, are not the reasons of the judgment; they are the reasons that a House of Lords appeal case always ends with?—What I meant by that was this: That upon that reason the whole argument before the House of Lords turned.

1158. I cannot say that I think it did. After all, we must judge of that by the authorised report of the House of Lords case?—Exactly so.

1159. I do not think we can well take more from you, or would wish to take more from you than the fact which we all know, that the judgment was reversed?—I would not presume to talk upon legal questions before you, but I hope I may state these as matters of fact: That before the House of Lords it was attempted to be shown absolutely that a trade union could not be sued. Of course the counsel for the company argued that it could be sued; that whether there were any express enactments or not, in fact the law was, and must always be, able to reach a wrong doer, whether acting individually or in combination with others; and a number of cases were cited before the House of Lords, going back to 1675, as showing that bodies of persons, however loosely constituted, were always able to be reached by process of law. One of the cases referred to was an action against a trade union before 1871 when the Act was passed, and an injunction was granted against that union.

1160. (*Mr. Cohen.*) What case was that?—That was the *Springhead Spinning Company v. Riley* in 1868.

1161. The point was never raised in that case?—I do not know whether this particular case was mentioned or not. You must have misunderstood me if you understood me to say that it was raised in the case. I have here the cases that were in the hands of counsel and were prepared for counsel for use during that argument; and one of those cases was a case in which an injunction was granted against a trade union before 1871.

1162. (*Chairman.*) I do not think really you will help us much; we have been through the whole of those cases and shall have to go through them again?—Well, if you have already had the cases before you, it is absurd for me to suggest that I should now put them in; but these of course have never gone out of our possession, and I do not know that anybody ever had them in the way we have them here, or to the extent that we have them. Then on

the 4th December, the Taff Vale Company issued a further writ against Bell and Holmes and the trustees of the society for an injunction and damages. On the 3rd December, 1902, the hearing commenced before Mr. Justice Wills and continued until the 19th; and he put three questions to the jury: "(1) Did the three defendants conspire together to molest and injure the plaintiffs in their business by unlawful means; (2) Did the defendants, or either, and which, of them unlawfully persuade the men whose notices had not expired to break their contracts; (3) Did they, or either, and which of them authorise and assist in carrying out the strike by unlawful means."

1163. (*Sir Godfrey Lushington.*) What document are you reading from?—The shorthand notes of the proceedings before Mr. Justice Wills.

1164. They are not published are they?—No, they are not; but if they would be of any use to the Commission I should be very glad to supply a copy.

1165. I shall be very glad if you will?—I will do so. (*A copy was subsequently sent in. Vide Appendices, pp. 62-71.*) The jury found—(1) That the three defendants, that is the society, Bell and Holmes, conspired together to molest and injure the plaintiffs in their business by unlawful means; (2) That all of the defendants unlawfully persuaded the men, whose notices had not expired, to break their contracts; (3) That all of them authorised and assisted in carrying out the strike by unlawful means. It had been previously agreed that the question of damages should be left to the judge; but shortly after—about a fortnight or three weeks after, I think—overtures were made by the solicitors of the society to the company's solicitors, and meetings were held, and in the result the damages were agreed at £23,000 and paid, whereby the litigation came to an end. I should like to add one fact which I have omitted, which is that immediately the strike commenced summonses were taken out against a number

of the men who had left their employment without notice or before their notices had expired. Altogether we took out summonses against 208 men. Fifty-nine firemen were fined £4 each; summonses against eleven drivers were dismissed on the ground that they were men who were not employed in manual labour, and therefore they did not come within the act. As regards the remainder, 130 summonses were taken out against them, and they were pending at the time the strike came to an end; and it was part of the arrangement then entered into that those summonses should not be proceeded with. Although we excepted the cases of all those men who were proceeded against for violence and such like, these cases of summonses for breach of contract were not proceeded with. I have said that fifty-nine were fined £4; and that fine the union told the men they would pay, but after the strike was over they declined to pay, and the company abandoned the fines altogether. In the other cases all the summonses were abandoned. As regards the men who were proceeded against for outrage, intimidation, and so on, there were twelve cases altogether. In the first case the men who were charged with stopping a train and taking the men through the public streets to the headquarters of the society, they got three months hard labour. There were two cases in which men were charged with assault and intimidation—they were concerned in the case I have just referred to where men were taken off the engine, tied together, hauled through the streets and taken to the headquarters of the union—those men got three months hard labour. Another was committed for trial, but acquitted at Quarter Sessions, another man got seven days hard labour, another two days hard labour, one was fined £2, and the others were either not committed or acquitted at the trial. The last case was one of a very serious assault, which was settled by allowing the man who was charged with the assault to pay compensation to the man who was assaulted, and the company allowed the proceedings to drop.

*Mr. A.
Beasley.*

29 June 1902.

FOURTEENTH DAY.

Wednesday, 6th July, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., *Secretary for Scotland (in the Chair).*

Sir WILLIAM THOMAS LEWIS, Baronet.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. AMMON BEASLEY recalled and further examined.

Mr. A.
Beasley.
6 July 1904.

1166. (*Chairman.*) We come now to your criticisms on the various legislative proposals which have been made?—Yes. I have been mindful of what you said on the last occasion, and I have condensed my notes as much as possible, so that I shall not, I think, occupy very much of your time. Before I refer to the Bills, and so on, perhaps I may say that, as everybody knows, the justification for these Bills has been stated to be that the Taff Vale judgment either made new law, or that it was contrary to what the law was intended to be, or contrary to what the law was thought to be.

1167. Of course you limit that observation to the Bills so far as they proposed to change the law on that subject?—Yes.

1168. Obviously those Bills deal, for instance, with new rules as to picketing, and so on, which have nothing to do with the Taff Vale judgment?—I quite agree, so far as the exemption from responsibility of trades unions is concerned.

1169. What I want you to understand is this: that besides giving your views upon the proposals in those Bills which would alter the law as laid down in the Taff Vale judgment, I would also be very anxious that from your experience as an employer of labour generally you should not confine your observations to that, but also give us your view as to the meaning in practice of the other proposals included in the Bills?—Yes, I quite understand. I thought it was pertinent to remind the Commission of the justification which is sought to be set up for the introduction of these Bills. As regards the Taff Vale judgment being new law, I need not say anything at all; but, as respects the suggestion that the Taff Vale judgment was contrary to what the law was intended to be, I have gone carefully through the proceedings before the Royal Commission of 1867, and I do not find that a single witness ever suggested that trade unions should be exempted from responsibility; on the contrary where there were any suggestions made, they really go to negative that contention. The Commission issued a paper of questions to a number of trade societies, in which they invited suggestions from the trade societies; and one of the questions put was: "What alterations in the state of the existing law are you prepared to suggest?" That paper of questions was answered by forty-seven trade unions, and on this point thirty-eight replied, that is, as to this question of what alterations in the existing law they would recommend. The whole of them referred to legal protection or legal protection of funds, or legal protection such as friendly societies enjoy. One or two go on to explain a little further what they mean by that, that fraud on the society by a member should be punishable. That, no doubt, was suggested by the difficulty which had been experienced in punishing secretaries who misappropriated the funds. Then one, I see, the Scottish National Association of Operative Tailors, said this: "Legal protection (such as other societies enjoy) is the only remedy for their chief defect—mismanagement." Some suggested registration of rules under Act of Parliament; but not one suggested that the trade unions should enjoy immunity from legal proceedings, or anything of the kind. There were a number of suggestions also made for the establishment of Boards of Conciliation and legalisation of the working rules; but the dominant note in all these suggestions is,

"protection of funds" against malversation; and, wherever the protection said to be required is defined by any of these trade unions, it is by the means provided in the case of friendly societies. There is abundant evidence that what was weighing with the unions at the time was the protection of their funds against embezzlement. Now under the 44th Section of the Friendly Societies Act, 1885, it was provided that a society established for any purpose, not illegal, might, by depositing its rules with the Registrar of Friendly Societies, enjoy the privilege of having disputes among its own members summarily dealt with by the magistrates; and several of the large trade unions deposited their rules (although some societies complained to the Royal Commission of 1867 that the deposit was refused on account of the rules providing for strikes), believing that by this means they could proceed summarily against a defaulting secretary or treasurer. Then what immediately led, I suppose, to these suggestions was, the failure of one of the unions, I think it was the Boiler Makers' Society, who failed to get a conviction against a defaulting treasurer of one of their branches, and thus the officers of the union found their union deprived of the legal status which they imagined they had acquired. That is exactly what is now said in the same words.

1170. (*Sir William Lewis.*) When was that?—In 1867, at the time this Commission was appointed. Then another paper was prepared by this Commission of 1867, for general circulation. It appears to have been issued to no less than 443 persons, but only thirty-four furnished answers, and of those who furnished replies only two, the Dewsbury Trade Council and a Mr. Ludlow, appear to have represented other than employers. The Dewsbury Trade Council expressed the opinion that the law was defective "in there being no provision for the security of the funds of trade unions which are not opposed to the spirit of the laws." Mr. Ludlow appears to have been at that time a rather voluminous writer upon trade union subjects, hence I suppose the reason why this paper of questions was sent to him. What he says is this, putting it very shortly: "The main amendments I should propose is the direct legislation of trade societies—that is, under the Friendly Societies Act. . . . I believe it is a positive danger to society and tends to bring the law into contempt when vast organisations like our great amalgamated societies are kept at once out of its grasp and out of its protection. I am, however, clearly of opinion, as I have more than once stated in print, that when trade societies shall have obtained a full legal status and when tribunals of adequate jurisdiction shall have been established for the settlement of trade differences, society will be entitled to make strikes and lock-outs penal as well as to extend the civil remedies of persons aggrieved by them." Then one of the trade union witnesses, at Question 7,506, page 217, said this. I am referring to the evidence given before the Commission. I started with the statement that no suggestions were made by any witness that there should be immunity from legal proceedings on the part of trade unions; and here is one of the leaders, a Mr. William Allan, who was secretary of the Amalgamated Society of Engineers, who said: "He thought that the Legislature ought to require some guarantee that the funds so protected would not and could not possibly be devoted to such purposes as we know they have been in the case of Sheffield." That of course referred to the then recent

cases of rattening, of which we all know. The only direct suggestion that I have been able to find in the proceedings of 1867 bearing on the concrete question of trade unions being allowed to sue and be sued in a corporate capacity, is contained in a memorial addressed to the Commissioners by the General Builders' Association, at pages 334-5 of the Digest of Evidence, in which the following passage appears: "We would recommend that the Secretary of State should appoint a Registrar of Voluntary Associations, with power to certify that the rules of such associations were not contrary to law and public policy; that all associations whose rules are so certified should have a quasi corporate character and be empowered to hold property and to sue and be sued." The Report of this Commission from which I have made one or two brief extracts, also goes to show that there was no recommendation at all, and it was not at all in the minds of the Commissioners, that there should be this immunity from legal proceedings which is now claimed, but the very contrary. In paragraph 59 of the Majority Report the Commission said: "It may be assumed that trade unions with very few exceptions have by their rules and proceedings placed their funds more or less beyond the protection of the law, and that this is a state of things which ought not to be allowed to continue." Then in paragraph 60, they say: "With regard to the general question of the right of workmen to combine together for determining and stipulating with their employers the terms on which only they will consent to work for him, they think that provided the combination be perfectly voluntary and that full liberty is left to all other workmen to undertake the work which the parties combining have refused and that no obstruction be placed in the way of the employer resorting elsewhere in search of a supply of labour, there is no ground of justice or of policy for withholding such a right from the workmen." Then paragraph 62 emphatically pronounces in favour of the efficient protection of the non unionist workman, and goes on to say: "It is the more important that the law should protect the non unionist workman in his right freely to dispose of his labour as he thinks fit, because standing alone he is the less able to protect himself;" and at paragraph 64 on page xxi. they assert that the law "should recognise the right in the labourer to dispose of his labour, the capitalist of his capital, and the employer of his productive powers, in whatever manner each of them, acting either individually or in association with others, may deem for his own interest, and that without reference to the question whether he is acting wisely for his own interest or advantageously to the public, or the contrary. The interest of the public will be best consulted by allowing each of these parties to do what he thinks best for himself, without further interference of the law than may be necessary to protect the rights of others."

1171. The parties being employers and employed?—Exactly. Then this principle is again asserted in paragraph 67, in which they say that they do not think there is "any sufficient reason for withholding from the working classes the right of combining together for conducting their dealings with their employers, and of striking work in concert when they see fit, provided that the combination and the strike are voluntary, and that no contract is violated, and the rights of no other persons are interfered with." In referring to picketing, at paragraph 70, page xxii., they say: "that picketing implies in principle an interference with the right of workmen who are not members of the union to dispose of their labour as they think fit, and is therefore without justification, and so far as it relates to the employer it is a violation of his right of free resort to the labour market for the supply of such labour as he requires." In paragraph 72, they say they have no hesitation in expressing an opinion that the abuses which have been proved to arise out of the practice of picketing "ought to be carefully and uniformly repressed." That is exactly my opinion, founded on my experience to-day. Under the head of "Proposed Legislation," in paragraph 73, page xxiii the Commissioners recommend that while the then existing law should be relaxed, the Bill should provide that, "nothing therein contained should be construed to affect the liability of every person to prosecution and punishment in respect of any offence under any Statute or rule of law for the time being in force, and that the proposed Bill should also provide that nothing therein contained should affect the liability of every person to be sued at law or in equity in

respect of any damage or loss which might have been occasioned to any other person through any act or default of the person so sued." Nothing, I think, could be more precise than that. A little further on in the same paragraph they recommend that the Bill should further provide, "that nothing therein contained should alter the law as it at present exists respecting combinations to do acts which involve breaches of contract." Then later on in the same paragraph they say that the Bill should provide that "nothing therein contained should make lawful any combination to refuse to work with any particular person with intent to prevent the employment of such person or to refuse to employ any particular person in any case in which by the law as it now stands such combination would be unlawful." Then in paragraph 75, on page xxiii., they also add: "whilst recommending that the law relating to voluntary combinations for the disposal of labour and capital should be relaxed to the extent that we have proposed, we deem it of the highest moment that the law so far as it aims at repressing all coercion of the will of others in the disposal of their labour or capital should be in no degree relaxed." At paragraph 79 the Commissioners express the opinion that "there would be advantage to the unions if they were established with the capacities, rights, and liabilities arising from a status recognised by law, and there would be advantage to the public if their proceedings were made public, and the officers of unions, acting according to law, had the position to which persons discharging important duties are entitled." They therefore recommend, in paragraph 80, "that facilities should be granted for registration as will give to the union capacity for rights and duties resembling in some degree that of Corporations."

1172. Is this the Majority Report?—This is the Majority Report.

1173. There was a Minority Report too?—Yes, and with your permission I should like to refer to the Minority Report; because it has been held, and I think Mr. Sidney Webb, who I am sorry is not here this morning, holds that opinion, that notwithstanding that these recommendations were made by the majority, yet by some ingenious device the Act of 1871 was so framed as to give the Trade Unions immunity from the liability to be sued.

1174. But what was actually adopted afterwards was based upon the Minority Report?—There is no doubt that the Act of 1871, was largely based upon the Report of the minority, but without those safeguards which the minority themselves suggested and said it would be necessary to provide for. There are certain paragraphs, which I need not read, wherein they suggest that the funds for benefit purposes, and the funds for trade unions purposes should be kept separate. That is one of the suggestions I was going to make to you now, as the result of my experience of trade unions and their methods.

1175. (Sir Godfrey Lushington.) The observations which you have made apply to several different things. They not only deal with the Taff Vale case, that is to say, the question of the liability of Trade Union funds for an illegal action committed at the instance of the trade union, but they also deal with the law of conspiracy?—Yes.

1176. And they also deal with the law of picketing?—Yes.

1177. Those things are quite separate from one another and I think ought to be dealt with separately, so far as you can in your evidence?—That is what I propose to do when I come to deal with the Bills.

1178. (Sir William Lewis.) You will put forward your recommendations seriatim bearing upon these several points?—That is what I propose to do, with your permission.

1179. And I take it, also, they are based upon your experience, because you have had experience not only in the Taff Vale case, but also in other cases of picketing?—Yes. The Minority Report, as you may perhaps remember was signed by the Earl of Lichfield, Mr. Thomas Hughes and Mr. Frederick Harrison. I believe the Report was really drawn up by Mr. Hughes and Mr. Harrison although it was signed by Lord Lichfield. At paragraph 4, page xxxi., they say, "It should be specially provided that, except so far as combinations are thereby exempted from criminal prosecution, nothing should affect the liability of every person to prosecution and punishment for any offence under any statute or rule of law for the time being in force

Mr. A.
Beasley.
6 July 1904.

Mr. A.
Beasley.
6 July 1904.

nor affect the liability of every person to be sued at law or in equity in respect of any damage which may have been occasioned to any other person through any act or default of the person so sued." That seems to be almost word for word the same as the recommendation of the majority. This paragraph which I have just read from the Minority Report, was quoted by Lord Macnaghten in giving judgment in the House of Lords, in the Taff Vale case, page 167. He says "The substantial question therefore, as Mr. Justice Farwell put it, is this: Has the Legislature authorised the creation of numerous bodies of men capable of owning great wealth and of acting by agents with absolutely no responsibility for the wrongs they may do to other persons by the use of that wealth and the employment of those agents? In my opinion Parliament has done nothing of the kind. I cannot find anything in the Acts of 1871, and 1876, or either of them from beginning to end to warrant or suggest such a notion. It is perhaps satisfactory to find out that nothing of the sort was contemplated by the minority of the members of the Royal Commission on Trade Unions, whose views found acceptance with the Legislature. In paragraph 4 of their report they say: (It should be specially provided that except so far as combinations are thereby exempted from criminal prosecution nothing should affect . . . the liability of every person to be sued at law or in equity in respect of any damage which may have been occasioned to any other person through the act or default of the person so sued.)" Then he goes on to say: "Now, if the liability of every person in this respect was to be preserved, it would seem to follow that it was intended by the strongest advocates of trade unionism that persons should be liable for concerted as well as for individual action; and for this purpose it seems to me that it cannot matter in the least whether the persons acting in concert be combined together in a trade union, or collected and united under any other form of association." Then in paragraph 6 Messrs. Harrison and Hughes recommend: "That every such lawful association be capable of obtaining the benefit of those parts of the Friendly Societies Act, 18 & 19 Vict., chapter 63, which apply to the societies mentioned in Section 11, that is to say, the power of appointing trustees of their property, the mode of settling disputes and the remedy against fraud, and those parts of the Friendly Societies Act alone." It was in that respect that the Act of 1871 did follow the recommendations made by Messrs. Harrison and Hughes; but although the Act of 1871, in its final shape, contains provisions agreeing very closely with what I have read as their recommendation, it is inconceivable that its authors did not mean to associate with it the recommendation in the paragraph I have just read, and which was quoted by Lord Macnaghten. Then Messrs. Harrison and Hughes, in addition to making the report which they got Lord Lichfield to sign, themselves prepared a memorandum, under the head of "proposed amendments of the law." On page lii., they state this: (1.) "At common law every person has a right to full freedom in disposing of his own labour or his own capital according to his will, and every obstruction to the exercise of that right in such a degree as to cause damage to him thereby, even by means not otherwise unlawful, is a wrong. (2.) A combination by many to do a wrong in a matter where the public has an interest, is the substantive offence of conspiracy and a crime." And in the last paragraph of the same page they say: "The liberty for workmen to make agreements amongst themselves as to the terms they shall demand, and by lawful and orderly means to give effect to such agreements, has been long conceded in practice and seems to us an unquestionable right." Then in the last paragraph but one, on page lviii., they say: "As a general principle trade unions still remain at common law illegal societies, incapable of public recognition, and of registration under any existing Acts, and disqualified from making any legal title to funds which are the proceeds of the combination. Such a state of things, it appears to us, requires a complete and positive remedy, by which trade unions untainted with crime may be declared capable of legal recognition, and be enabled to make a formal title to their own *bona fide* property." Then in the following page, at paragraph 3, they say this: "A very serious question arises here as to whether legislation of a far more comprehensive character is not needed to place trades unions on a full legal footing, whether, in fact, a complete statute should not be enacted

analogous to the provisions of the Friendly Societies' Acts and the Joint Stock Companies' Acts and the like, by means of which uniform rules would be framed for the formation, management, and dissolution of these associations, and by which they should be enabled to sue and to be sued by their members, to recover from members their contributions or fines, and be made liable to members for the benefits assured. We are inclined to believe that the time has not yet come, if it ever comes, for any such statute . . . We are far from seeing any certainty that such an Act is even ultimately desirable . . . All questions of crime apart, the objects at which they aim, the rights which they claim, and the liabilities which they incur are for the most part, it seems to us, such as courts of law should neither enforce, nor modify, nor annul: they should rest entirely on consent." It seems that those observations refer entirely to *inter se* matters. Then this paper closes with these passages (paragraph 6, page lxiii.), "That it is expedient to give full and positive protection to the property and funds of trade unions," and that it is expedient to carry out this end by the following amongst other means: "5. Union not to be (otherwise than under the sections of the Acts referred to) capable of suing as a corporate body or recovering at law contributions, arrears or fines against its own members, or of otherwise enforcing at law or in equity any of its rules, resolutions or contracts as against any of its members. 6. Union not to be (otherwise than as aforesaid) capable of being sued as a corporate body, or of being dissolved, or otherwise wound up, by the courts, and not to be accountable in law or equity to its members in respect of any rule agreement or resolution or act of the society." Those paragraphs ought to be read in conjunction with the paragraph I have previously read and the one quoted by Lord Macnaghten, as showing that what was in their minds was, not exemption from liability for wrongful acts done to third persons, but immunity from responsibility as between themselves, the members to the union and the union to the members. And in the course of the proceedings in the House of Lords, you will find, at page 90, that Mr. Haldane quoted these passages in support of his arguments, that the Legislature was not legislating with (as he put it) only one possible view before it. Lord Macnaghten pointed out, on page 91, that these passages were "chiefly directed to questions between the union and its own members," which seems to be clear from the passages I have read. Then there was a long, and, it seems to me a very valuable contribution to the law of the subject, in a Memorandum by Sir William Erle, which you will find appended to the Report of the Royal Commission of 1867. There is one passage that perhaps I might be permitted to read, which rather bears on the question put to me a little time ago. On page lxi., in paragraph 3, Sir William Erle said this: "Under the general principle operating upon all trades, which has been considered above, the law relating to freedom in disposing of either labour or capital or both is included. Every person has a right under the law as between him and his fellow subjects to full freedom in disposing of his own labour or his own capital according to his own will. It follows that every other person is subject to the correlative duty arising therefrom and is prohibited from any obstruction to the fullest exercise of this right which can be made compatible with the exercise of similar rights by others. Every act causing an obstruction to another in the exercise of the right comprised within this description—done, not in the exercise of the actor's own right but for the purpose of obstruction—would, if damage should be caused thereby to the party obstructed, be a violation of this prohibition; and the violation of this prohibition by a single person is a wrong to be remedied either by action or by indictment, as the case may be. It is equally a wrong whether it be done by one or by many." Then at page lxxi., paragraph 5, there is a passage that has a bearing on the question, I think. Sir William Erle says: "The supply of labour to the employer is stopped if the working man chooses to stop, and assuming for the present that this act is lawful, whenever he freely chooses so to do, still a party who induces him so to do may in so doing (as it seems to me) infringe the right of the employer to a free course for the supply of labour." Then a little further on he says: "If the party paying for such a stop attempts to rebut the presumption of unlawfulness by alleging an honest purpose,

the question of motive is the issue; and if the motive is found to be malicious, it seems to me to accord with the principle that he should be found guilty of a wrong and made liable to damages." Then on page lxxvi., in the last paragraph but one, he says: "The common law in force since the statute of 6 George IV. secures to every person freedom to follow his own will as to working and employment, and also as to combining with others in respect of wages and hours, and for all other lawful purposes; but he has no right to use unlawful means either by himself or in combination with others in order to coerce the will of another party to prevent him from working or employing as he may choose; and probably he has no right to apply the power of a combination for the purpose either of malicious damage or of unjust extortion, although he uses no unlawful means except combining to obstruct the free course of trade in order to effect such purpose," and then he refers to the Statute 22 Victoria, cap. 34.

1180. (*Sir Godfrey Lushington.*) These documents are all before the Commission, and have to be very carefully studied by the Commission. If there is any point on which you wish to focus the contents of the Reports of the Commission, it would be very serviceable to us; but it is not of service to us just to go through clause after clause of all the Reports of these various Commissions which you think are important. Really by so doing you in a way introduce confusion, because you deal with a number of subjects all at once?—Pardon me if I say, with regard to that, that my object, and sole object, was to show what I thought it was of much importance to show: that there is no foundation for the statements and suggestions which are being scattered broadcast: that it was intended that the law should be as certain people desire that it shall be made to be. I thought it of importance that it should be shown clearly that there is no foundation for any suggestion of that kind arising out of the recommendations made by the Royal Commission of 1867, which led to the Act of 1871.

1181. (*Sir William Lewis.*) But would it not be sufficient, having regard to what Sir Godfrey Lushington has said, if you simply stated that Sir William Erle's summing up of the position you are referring to, without quoting it at all, supported your contention?—I have quoted now just the two or three passages I desired to quote with regard to that. It is for the purpose of showing that if there has been such an impression (and I believe there has been) that it was intended that the trade unions should not be liable to be sued, there really was no foundation for it arising out of those proceedings. You cannot take up a newspaper without seeing that some Member of Parliament or some candidate for Parliament is asked whether he will support an alteration of the trade union law, so as to bring it into line with what it either was before the Taff Vale Judgment, or what it was intended to be, or what it was thought to be.

1182. Or rather what they wished it to be?—They do not go so far as that, I think. But it was my anxiety in quoting these passages to show that there never was any foundation for any such suggestion.

1183. Will you now please to proceed?—I should like, with your permission, to quote one or two passages (they are very short) from the Report of 1894, because there is a passage in that Report which has often been quoted and referred to as justifying the view which I have just now mentioned, as being held as to the intention of the Legislature to give trade unions the immunity which the parties are now seeking. The paragraph that I am going to quote is really a paragraph that has been made use of in support of the contention that there was justification for the feeling that trade unions were exempt.

1184. Then we will assume that it is appropriate, and you may go on at present?—If you will forgive me I will read this, although in a sense it makes against the point I was desiring to make, and does give some colour to the statement, that the 1894 Commission held the view that trade unions were placed in some sort of exceptional position as regards legal proceedings. This is at page 40, paragraph 104: "The question arises whether any civil remedy remains to the employer or non-unionist workman. It must be observed that although the Act of 1875 exempts conduct which does not amount to intimidation in the sense which the Courts give to intimidation from penal consequences, it leaves untouched the right, if any, of persons injured by such

conduct to bring civil actions to recover damages. It may be true that even where the employer or non-unionist workman may have the civil remedy referred to, that remedy may yet in many cases be practically valueless. Although the discharge of the workman from employment may be due to decisions taken by a trade union and consequent action by some official on its behalf, the trade union cannot be sued, nor can damages be recovered from its collective funds." Then a little lower down they go on to say: "It was held by the Lord Chief Justice and Mr. Justice Hawkins" (they were then referring to the case of *Temperton v. Russell*) "that the plaintiff was not entitled to sue the trade union officers who were defendants in their representative character, but only as individuals, and this decision was confirmed by the Court of Appeal." Then a little lower down they go on to say: "This case shows that persons injured by the action of trade unions and their agents can only proceed against the agents personally, and whilst they may obtain verdicts against them they may in many easily conceivable cases be unable to recover adequate damages. This difficulty is one which illustrates the inconvenience which may be caused by the existence of Associations having, as a matter of fact, very real corporate existence and modes of action, but no legal personality corresponding thereto." Now, Lord Macnaghten again—and it might be useful if I referred to it now—(Appeal Cases, 1901, pp. 438 and 439), refers to this case of *Temperton v. Russell* in this way: "Mr. Haldane relied on the case of *Temperton v. Russell*; but *Temperton v. Russell*, as I said in *Duke of Bedford v. Ellis*, was an absurd case. The persons there selected as representatives of the various unions intended to be sued were selected in defiance of all rule and principle. They were not the managers of the union—they had no control over it, or over its funds. They represented nobody but themselves. Their names seem to have been taken at random for the purpose, I suppose, of spreading a general sense of insecurity among the unions who ought to have been sued, if sued at all, either in their registered name, if that be permissible, or by their proper officers—the members of their executive committees and their trustees." I have quoted that because I know that that passage in *Temperton v. Russell* has been often referred to as justifying the view that everybody thought that trade unions were exempt from process of law. But other passages in the Report of 1894 go to show—in fact, I may almost say they satisfy me, that what was mainly in the minds of the Commissioners of 1894 was *inter se* obligations—the ability or inability to make or not to make agreements between themselves and their members, and between one trade union and another.

1185. What is your ground for that conclusion?—I should justify it by citing certain passages in the Report.

1186. Sir Frederick Pollock, you know, wrote the greater portion of that part of the Report?—Yes. There are two extracts that I should like to make from Sir Frederick Pollock's Report, if you will allow me. At page 159, Sir Frederick Pollock in a memorandum on the law of trade unions says, at paragraph 3: "If a strike is begun by stopping work in breach of an existing contract, the employer probably has a right of action against the promoters of the strike for procuring that breach of contract."

1187. (*Sir Godfrey Lushington.*) That has nothing whatever to do with the question of the liability of trade union funds?—Of course, the promoters of the strike would be the trade union.

1188. But they would be personally liable?—Then in paragraph 5 if you will allow me to quote that for what it is worth, he says: "But no one is free to deprive an employer of his workman's services or of the custom of those who may deal with him, by violence or unlawful interference of any kind with person or property, nor by threats thereof. Any such act is a trespass against the employer as well as against the workman or customer intimidated, and the rule seems to extend to threats of doing harm by means of a breach of contract or other definite civil wrong."

1189. That is also quite irrelevant, if you will allow me to say so, to the point at issue. That is merely an observation as to what constitutes a tort—a wrong; but the question on which you are now giving evidence, as I understand, is the question whether the trade union funds

Mr. A.
Beasley.
6 July 1904.

Mr. A.
Beasley
6 July 1904.

should be rendered immediately liable for damages on account of a tort which has been done?—There is another paragraph on page 159, the last paragraph but one, in which he says: "I am not aware of any subsisting legislation which with regard to civil liability could be held to affect the results of common law principles." That would seem to embrace a trade union as well as individuals.

1190. That also, although in a way it deals with the question, is of no use to us; because no one supposes that there is any subsisting legislation which has taken away the common law principle of liability, no one has ever argued that?—Of course, that of itself, I gather, in your mind, at once disposes of the contention that it was intended that trade unions should be relieved.

1191. You must not assume that altogether?—Will you allow me to read another paragraph which seems to take that point a little further; it is on page 160, the last paragraph. He is there referring to the Act of 1875; he says: "Another section of the Act declares certain specific forms of molestation exercised (with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do, or abstain from doing), to be substantive criminal offences. There is no doubt that the intention of this Section was to draw the line between legitimate and illegitimate picketing. Certainly most, and I am disposed to think all, of the acts specified being done with the intent mentioned would be civilly wrongful apart from any legislation."

1192. That again is merely an expression of opinion as to what is civilly wrong—what is a tort? but the question we are now discussing is this, supposing a tort has been committed by an agent of a trade union, can the trade union funds be rendered immediately liable?—Of course that has been settled in the Taff Vale case, and I am perfectly alive to that. But we are face to face with impending legislation or an attempt to bring about legislation on certain lines; and the justification for that legislation is the feeling which has got abroad, that it was intended by Parliament that the trade unions should be exempted; and my anxiety has been throughout to show that there was no foundation for any such feeling arising out of any proceedings before these two Commissions, which are the two Commissions which have sat upon the subject previously. Then there are just two other paragraphs at page 161, paragraphs 2 and 3. He was referring to the case of *Curran v. Treleaven*, which was one of the cases referred to in the Report of the Commission, and he says: "It appears that the union men who were called out did leave their work peaceably indeed, but in breach of existing contracts." Then in paragraph 3 he says: "The further question whether Mr. Treleaven had a remedy by civil action against the officials of the union for procuring the union men to depart in breach of still subsisting contracts, was not before the court and does not appear to have been mentioned even incidentally."

1193. That also is immaterial; it merely raises the question of whether the trades unions agents are individually liable. You are aware, are you not, that in the case of *Temperton v. Russell*, where it was held that a trades union could not be directly sued and trades union funds could not be directly liable, there also the trades union agents were found liable for the damages and had to pay damages. The two are quite different questions?—In the case of *Temperton v. Russell* I suppose it was held that the officers of the union could not be sued in their representative capacity because of their not having a common interest with the other members of the union.

1194. (*Sir William Lewis*.) But they were sued personally in that case?—Yes.

1195. (*Sir Godfrey Lushington*.) I should like to call your attention to paragraph 104 of the Report of the Labour Commission of 1894, which contains this passage: "In the recent case of *Temperton v. Russell* and others the plaintiff, who carried on business as a builder, sued the officers of three trade unions, and of the joint committee of these trade unions) as well on their own behalf as on behalf of and representing all the members of each of

the said societies and joint committee to which they severally belong), for damages, and also for an injunction to restrain the trade unions and joint committee from molesting him in the conduct of his business. It was held by the Lord Chief Justice and Mr. Justice Hawkins that the plaintiff was not entitled to sue the trade union officers who were defendants in their representative character, but only as individuals, and this decision was confirmed by the Court of Appeal. Damages were subsequently recovered in this action against the officials of the three trade unions, and an injunction obtained restraining the defendants." Therefore there is no doubt whatever that not only an individual workman, but an individual trade union agent is responsible—civilly responsible as well as criminally responsible—for his action; but that has no bearing on the subject of the liability of trade union funds?—The note I have with regard to *Temperton v. Russell* is this: Action was brought by the plaintiff against the presidents and secretaries of three trade unions at Hull "as well on their own behalf as on behalf and representing all the members of each of the societies to which they respectively belonged," for (1) Unlawfully and maliciously procuring certain persons who had entered into contracts with the plaintiff to break such contracts, and (2) for maliciously conspiring to induce certain persons not to enter into contracts with the plaintiff by reason whereof the plaintiff sustained damage. Held, that the acts of the union were actionable not only as causing breach of contract but as preventing contracts being entered into. On appeal by two of the defendants the Court of Appeal decided that the words indicating that the defendants were sued in a representative capacity must be struck out on the ground that under Order 16, Rule 9, there must be not only a common interest but a common proprietary interest. Note.—This decision as to the necessity for the common interest being a common proprietary interest was reversed by the House of Lords in the case of *The Duke of Bedford v. Ellis*.

1196. That only bears out the passage I have read?—Then there was one passage from the 1894 Report which I particularly wanted to refer to.

1197. (*Sir William Lewis*.) Is this still on the same point?—No, not on the same point; but it arises with regard to these Bills which have been recently introduced into the House. At page 26, paragraph 64 recites the definition of a "trade union" in the Act of 1870, and points out that the term "embraces employers' associations." That I think a most important question to consider in reference to these Bills; because whatever is sought to be done by these Bills for a trade union would be done for employers' trade unions, and in certain respects for the employers individually as well as for the workmen.

1198. That is to say, combinations of employers or employed?—Exactly. They call attention to that, but then they go on to say: "In this Report the term 'trade union' is employed in its usual sense as meaning an association of workmen." Of course in the public mind whenever a trade union is referred to, it is a trade union of workmen only, that is supposed to be meant.

1199. I think you indicated at the last sitting that you were going to give your opinion upon the Bills which had been prepared in recent years bearing upon these matters?—Yes.

1200. Before you proceed to that, I may remind you, that at a previous sitting you promised to give some illustrations as to cases where awards had been violated in connection with conciliation boards?—Yes, I think I did, and I have some cases here. I think it was in reply to an observation of Mr. Cohen, which led me rather to infer that he thought the case or cases I quoted were exceptional.

1201. I think you referred to the Hetty Pit case?—Yes, that was the one I principally referred to; but I have here a list of seven other cases from 1896 to 1903. In all these cases a strike resulted from the refusal of the men either to accept the award of an arbitrator, or to abide by the terms of the settlement of the dispute, which had been agreed between the representatives of the men and the representatives of the employers.

ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

95

The Witness handed in the following statement:—

Mr. A. Beasley.

Memorandum of cases in which men struck work in consequence of refusing to accept terms of awards or agreements. 6 July 1904.

Page of Return.	Year.	Colliery.	No. of Men affected.	Struck From to		Cause of Strike.
46	1896	Mardy	61	Feb. 10	Feb. 22	Refusal to accept award upon the identity of a seam of coal.
48	"	Port Talbot	494	Oct. 3	Nov. 21	Refusal to abide by terms of settlement of a dispute <i>re</i> non-union men.
31	1897	Cwmtwroh	119	Nov. 1	Nov. 20	Dissatisfied with cutting and yardage prices by arbitration earlier in the year.
30	1898	Ebbw Vale	134	Sept. 12	Sept. 13	Objection to sign sliding scale agreement.
30	"	Treharris	7	April 16	June	Against reduction of wages of day men agreed under sliding scale.
25	1899	Gowerton & Gorseinon	550	Oct. 5	Nov. 16	For advance in wages in excess of arbitrator's award.
87	1903	Pontardawe	801	Sept. 16	Sept. 19	Dissatisfied with price list arranged by Conciliation Board.
	1903 1904	Hetty Pit	800	March 9	April 18 1904	Refusal to ratify settlement agreed by representatives of both sides as to cutting price.

1202. Where a specific award had been made?—Yes. I take the first, for instance. In 1896, there was a strike at the Mardy Colliery, owing to the refusal of the men to accept an award upon the identity of a seam of coal. Then there was in 1899, a strike at Gowerton and Gorseinon, where 550 men went out to compel the employers to give an advance of wages beyond what the arbitrator had fixed.

Coming now to these various Bills, the first Bill I want to refer to incidentally is a Bill called the Conciliation and Arbitration (Railways) Bill, introduced by Mr. Bell in 1901. I refer to it notwithstanding that probably in that form it is dead, because the union of which Mr. Bell is the representative have during the last two months had a Bill prepared to amend the Conciliation and Arbitration Act, 1896, and though probably it will not be introduced into the House this session, the chances are that it will be introduced next session, and I thought therefore some reference to it might be of interest at all events. This Bill of 1901 was a Bill providing for arbitration in railway disputes only, and the whole object of the Bill appears to be to compel the railway companies to acknowledge the railway men's union; for although it sets out by reciting in the first clause, that there shall be established a board of conciliation for the settlement of disputes between railway companies in the United Kingdom and the workmen employed by them, yet in the Bill itself the workman entirely drops out; the arbitration, and, so far as one can see, the dispute, must be between the railway company and the union; and there is a remarkable clause. I should like to direct attention to, Clause 7 in that Bill, because it seems for the first time to be an attempt to legislate with regard to the right of an employer to employ or to refuse to employ individuals. The clause which I refer to is this: "For the purposes of this Act the expression 'industrial dispute' includes a dispute with regard to any of the following matters: (a) remuneration of persons employed; (b) hours of employment and conditions of employment; (c) dismissal of or refusal to employ any person or persons; (d) employment of persons who are not members of a trade union; (e) any custom, or usage of industry." Therefore if that Bill passed, it would put it into the power of a trade union to take a railway company to arbitration, not only as to whether the company should or should not employ non-unionists, but whether they should employ any individuals who might be forced upon them, or whom they had grave reasons for dismissing.

1203. Or whether they should have the right to dismiss them?—Yes.

1204. (Sir Godfrey Lushington.) What became of that Bill?—It never went beyond First Reading. There was

rather a feeling, I think, that trade unionists, as a rule, did not approve of that Bill; because there is a very mixed feeling with regard to arbitration in the minds of trade unionists. Some pronounce for it, and some are very much opposed to it, probably because it would be held to be binding upon trade unionists. Of course, it would be held to be binding upon trade unionists, and they probably know the difficulties in the way of making any award binding upon a large body of men. I have, however, here a Bill which has just been prepared for the Amalgamated Society of Railway Servants, and is probably awaiting submission to the House, to amend the Conciliation (Arbitration) Act, 1896; and this Bill is important, because in the preamble it says, "Whereas the Act of 1896 has failed to secure the objects of conciliation as a means of settling disputes."

1205. (Sir William Lewis.) Are you not rather referring to a Bill that has not yet been made known?—Yes, that is what I say.

1206. Is that desirable?—I refer to it, for this reason: because here is a direct confirmation under the hands of the union itself, of the statement I ventured to make the other day, that the Conciliation Act was a failure.

1207. (Sir Godfrey Lushington.) What are you reading from. Is it somebody's sketch of a Bill?—It is a Bill that has been published by the Amalgamated Society of Railway Servants. It appears in their proceedings.

1208. (Sir William Lewis.) I beg your pardon; I did not know that?—I am quite aware that that is not officially before you.

1209. (Sir Godfrey Lushington.) It is not before Parliament?—It is not before Parliament, but it is of importance as indicating what is in the trade union mind. That is the way in which it occurred to me. The only novel feature of this bill is, that it seeks to provide, in lieu of the present conciliation methods, for the appointment of a national permanent Conciliation Board for the settlement of disputes and the prevention of strikes and lock-outs, by the appointment by the Board of Trade, where any disputes exist, of Local Boards of Conciliation. But neither of these bodies is by the bill invested with compulsory powers, and although the Conciliation Board may act as an Arbitration Board at the request of both parties, it has no power to enforce an award as against the men. And this is a point upon which all industrial arbitrations must fail wherever the workmen choose to reject the award. I have just given you some instances, where the men have refused to recognise an award, and where strikes have resulted in consequence. Then the first Bill that

Mr. A.
Beasley.
6 July 1904.

has been before the House is Sir Charles Dilke's Bill of 1903. The official title of the Bill is: "A Bill to legalise the peaceful conduct of trade disputes, and to alter the law affecting the liability of trade union funds." The first clause provides, that "where an act is done in contemplation or furtherance of a trade dispute, the person doing the act shall not be liable to an action on the ground that by that act he interfered or intended to interfere either with the exercise by another person of his right to carry on his business, or with the establishment of contractual relations between other persons." The significance of that is this: that it exempts individuals as well as the trade union, and it legalises the breaking of contracts. I think it is important to bear in mind that all those three bills that I am going to refer to are open to the same objection exactly, that they grant immunity to the individual as well as to the union; and I ask you to bear in mind that it is not only individual workmen or an individual agent of the workmen or the union, but an individual employer.

1210. Will you read it again, please?—"Where an act is done in contemplation or furtherance of a trade dispute, the person doing the act shall not be liable to an action on the ground that by that act he interfered, or intended to interfere, either with the exercise by another person of his right to carry on his business, or with the establishment of contractual relations between other persons. Provided that nothing in this section shall exempt such person from liability on any other ground." As regards that proviso, it differs from the other Bills, because there is no reservation at all in the other cases.

1211. (Sir William Lewis.) Is there anything in the context which would show that it is limited to workmen?—Nothing at all, either in the title or in anything else. My note is this: This and all other similar Bills were evidently drawn under the impression that it was the workmen's unions only and the workmen only that would get protection if they were passed; and every member who spoke in the House and every advocate of this and similar Bills outside treated the question as a workman's question only.

1212. (Sir Godfrey Lushington.) What is your inference from that?—The inference from that is—to give it a practical application—that if that Bill were to pass, an individual employer, say Lord Penrhyn, if only he took steps to start an industrial dispute, which could be done in five minutes, could go to the adjacent quarries which have been opened by a company formed of trade unionists in opposition to Lord Penrhyn, and could induce every one of the persons employed in those quarries to break his contract and come to join him; because the only condition precedent is, that it must be done in furtherance or in contemplation of a trade dispute.

1213. Do you think that the object of that was to render legitimate the infraction of a contract, or to render legitimate the procuring of a breach of contract?—I think there can be no question about it.

1214. It is open to another interpretation, a less objectionable interpretation, is it not?—It says "Notwithstanding."

1215. It might be merely limited to this: that a person who recommended a workman to give notice and so to cease his contractual relation with his master, should not be liable to an action?—I think the broader construction is the one that is intended to be put upon it. That presents itself to my mind. I propose to take Mr. Paulton's Bill of the present Session next on the same point. Clause 1 of Mr. Paulton's Bill provides that: "It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trade union—"

1216. (Sir William Lewis.) Do you not propose to refer to another Bill, viz, Mr. Shackleton's, in the same year?—Yes, but as Sir Godfrey Lushington has referred to this point I should like to refer to similar powers in these other Bills as illustrating what is intended: "It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following purposes at or near a house or place where a person resides or works, or carries on his business, or happens to be: (1)

For the purpose of peacefully obtaining or communicating information; (2) For the purpose of peacefully persuading any person to work or abstain from working."

1217. (Sir Godfrey Lushington.) But I do not think that means abstain from working in breach of contract?—"Abstain from working" without any reservation whatever. And yet one would hardly think that that was the meaning of that Bill, seeing that Mr. Robson has put his name to the back of it. That is Mr. Paulton's Bill. But going back to Sir Charles Dilke's Bill, I call your attention to the words in the first line "Where an act."

1218. (Sir William Lewis.) Yes, it is difficult to put any construction except what you put upon it?—Yes, that is what I feel. I think you have already got it before you that it exempts the individual as well as a trade union; and that goes a long way beyond what the trade unions have hitherto contended for. They have said, "Let the individual be liable for his acts if you please, but do not make the trade union liable also. Let the offender be punished, but do not punish us, notwithstanding that he may be our agent." That is what has been the contention hitherto, but this seems to go considerably further; and so do the other Bills referred to here.

1219. (Sir Godfrey Lushington.) The two questions of conspiracy and the liability of trade union funds, though they are often raised together in the same suit, are two totally different questions?—I quite gather that.

1220. Do you not think that the object of these proposals really was to relieve the individuals and therefore also the trade unions in their corporate capacity, of the liability to be sued for conspiracy to interfere with the business of the employer, although they were not endeavouring to bring about a breach of contract? I am supposing a case of inducing workmen to give in their notices and leave the service of the employer?—There is no doubt that whether that was the sole object or not, it was one of the objects of the persons who drew each of these Bills.

1221. Which was one of the objects?—What you have now been describing; because Clause 2 of this Bill of Sir Charles Dilke seems certainly to bear that out:—"An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute, shall not be a ground for an action, if such act, when done by one person is not a ground for an action." That is copied *mutatis mutandis* from the Act of 1875.

1222. With a very important change?—Of course, because it seeks to extend to civil proceedings the immunity from punishment under the Act of 1875, applying to similar acts; and the Bills are all the same. And that again, of course, would exempt the employers as well as the workmen. It all comes to the same thing. A combination of employers, an employer and his agent, or an employer and his manager, might conspire to do these things, and yet if that Bill passed they would be free from responsibility.

1223. (Sir William Lewis.) The language is equally applicable throughout the whole of that short Bill, both to employers and employed?—Yes.

1224. (Sir Godfrey Lushington.) But we should like to have your view, both with regard to the workmen and with regard to the employers. Do you think that workmen ought not to be permitted to go to other workmen and try to induce them to leave the service of their employer without breach of contract?—I have not said so; in fact, I have said in the course of this evidence of mine that I did not make any complaint with regard to that, however much one may dislike it. If it is legal of course one cannot complain of it.

1225. That is the whole point. Are you aware of a single serious judgment to the effect that workmen combining with a view to break contracts should nevertheless be exempt from liability? I am not speaking of their funds, but I am speaking of the individuals themselves. It has never been attempted, has it? You are in favour, are you, of having one law for all?—Certainly.

1226. For employer and for employed?—Certainly.

1227. And you are of opinion that if persons conspire either to commit an illegal act or to do what is legal but by violent means, they ought to be liable for conspiracy?—Unquestionably.

1228. Both civilly and criminally?—Unquestionably.

1229. Any persons?—Yes.

1230. But you are also of opinion that, supposing the act which persons combine to do is not in itself criminal, and not in itself actionable, nevertheless it should be open to a judge and jury to find those persons guilty of a criminal or a civil conspiracy?—Without going quite so far as to say that as applying to all cases, yet I can quite conceive of acts being done presumably legal, which may be held to be legal now, which do create a very great deal of hardship upon the persons concerned, as, for instance, in cases where men are forced to commit what in itself, as far as they are concerned, is a perfectly legal act, that is, to give in their notices, by terrorism and coercion.

1231. But terrorism and coercion are in themselves illegal acts?—I take it from you, of course.

1232. I am assuming the absence of illegal acts. Would you nevertheless contend that it should be open to the judge and jury, upon a view of all the circumstances of the case, to say that such a combination was dangerous to society, or any words you like to use, and that it should be punishable and actionable as a conspiracy?—It is difficult, of course, to give a general answer to a general question like that. It must depend upon the circumstances of each case.

1233. But I ask: do you hold that it should be open to the judge and jury upon a view of the circumstances of the case, if there has been nothing illegal done, and although the combination has not been to do anything illegal, nevertheless to hold that the combination is a punishable or actionable conspiracy? I will take an instance. Would the action of a trade union in endeavouring to persuade a whole body of workmen to leave their employer without breach of contract be treated as an actionable conspiracy?—If it were accompanied by coercion.

1234. No—without that?—It is difficult to say, if it be without coercion. There might be circumstances which would justify a judge and jury in finding that it was illegal, but it is very difficult to generalise.

1235. If you say that there might be circumstances, that throws the law entirely open, does it not?—Yes, it does.

1236. Are you in favour of that?—I think that each case must stand by itself, and be dependent upon its own circumstances.

1237. But you quite understand that that would be making a different law for persons acting in combination, from the law which applies to individuals. If, for instance, you do something which by law is not illegal and is not actionable, it is open to a judge and jury to say that, considering all the circumstances, they think it very vindictive on your part, or that what you have done may lead to very mischievous consequences; but it is not open to them to say that you are guilty of an offence or that you are liable in an action?—No doubt.

1238. (Sir William Lewis.) All persons have the right of giving notice individually?—Granted.

1239. Regardless of consequences, and although it might be a serious inconvenience?—Granted.

1240. But if by some combination every one of them give notice and they paralyse the whole operations of a railway company, should they be open to an action at law, or should they not?—My own feeling, of course, would be that they should. But there again I am bound to say that it must depend upon the circumstances of the case. I can quite conceive of it being done in a perfectly legal manner, and that nobody could really complain of it; and I have carefully avoided complaining myself of that having been done, although I know that that power has often been made use of to force people to act in a manner that they would not otherwise act in.

1241. Now have you anything to add before you proceed to your recommendations?—There are just one or two other observations that I would like to make upon these Bills. I have not taken the whole of the Bills. There is Clause 4 of Sir Charles Dilke's Bill: "Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, on the approach to such house or place, in order peaceably to persuade any person to do or abstain from doing that which he has a legal right to do or abstain from doing,

shall not be deemed a watching or besetting within the meaning of Section 7 of the Conspiracy and Protection of Property Act, 1875." Of course that either means something or it does not. I assume that it is perfectly legal now to peacefully persuade any person to do or abstain from doing that which he has a legal right to do or abstain from doing.

1242. (Sir Godfrey Lushington.) You must not assume anything of the kind: on the contrary, the opposite has been decided. If they watch and beset with a view to peacefully persuade, they are liable to prosecution under the Act?—Yes; but will you let me limit what I said first to the individual: that it is legal for a person to peacefully persuade another to do or abstain from doing that which he has a right to do or abstain from doing?

1243. Yes, that is so; but the question is the watching and besetting?—What I want to say with regard to that is this: That this clause that I have just read, if it allowed one individual to attend for the purpose of peacefully persuading a person to do or not to do something, would allow 100, and if 100, 1,000; and it becomes coercion, it becomes intimidation by numbers—as to which there would be no prohibition if that clause were passed.

1244. Now apply that to the Act which is in force. According to the same reasoning, which is perfectly sound, 100 or 1,000 persons would be allowed to attend for the purpose of giving or receiving information?—Yes, if that clause were passed that would be so.

1245. No, according to the Act as it is at this moment.

1246. (Sir William Lewis.) And that of itself is sufficient to deter many nervous people?—Then, of course, if it is allowable now, this clause means nothing, unless it is intended to legalise something which is at present illegal—unlawful assembly, for instance, or a nuisance by blocking up the thoroughfare or the means of access to a person's house. It must be intended to do something. Of course, such a thing as peaceable or peaceful persuasion does not exist; it always takes the form of intimidation. You never see a man picketing singly; there are always two or more. One can conceive of there being as much intimidation by two persons as by 100.

1247. (Sir Godfrey Lushington.) Then what is your inference from this? Are you for abolishing the law, or leaving it as it is?—Leaving it as it is.

1248. Then if you leave it as it is, it is lawful now for two pickets, or twenty pickets, or 2,000 pickets, to attend at a house for the purpose of giving and receiving information?—So long as they do not watch or beset.

1249. No, that is not so. The law says this: That every person who, with a view to compel another to do something he does not want to do, watches and besets a house shall be liable to punishment?—Yes.

1250. Then it proceeds to say that attending at a house or place merely for the purpose of giving or receiving information shall not amount to watching or besetting. That is the law now. Consequently, it is lawful for a person and any number of persons to attend at a house or place for the purpose of giving or receiving information, although the ultimate object may be to compel a person to do that which he does not wish to do?—Would you apply that to an unlimited number of persons for an unlimited time?

1251. That is the law now?—I understood that there must be either watching or besetting or intimidation, or both.

1252. (Sir William Lewis.) If that is the law, which I do not doubt, as Sir Godfrey says so, do you still think there is no necessity for altering it?—If that is the law now, then I say it ought to be altered.

1253. (Sir Godfrey Lushington.) Under the present Conspiracy Act "attending at or near a house or place in order merely to obtain or communicate information shall not be deemed a watching or besetting within the meaning of this section"?—Yes.

1254. That clause is not limited in respect of numbers is it, at present?—Not on the face of it.

1255. Nor limited in respect of time; the persons might attend, might they not, for weeks or months?—Yes, not on the face of it.

Mr. A. Beasley.

July 1904.

Mr A
Beasley.
6 July 1904.

1256. And it is not stated that attending at or near a house in order merely peacefully to persuade shall not be deemed watching or besetting?—No, it is not, in that part of it.

1257. It is now proposed in those Bills that attending at or near a house or place in order to peacefully persuade shall not be deemed watching or besetting?—Yes.

1258. And in fact to place peaceably persuading on the same footing as communicating and receiving information?—Yes.

1259. The question I want to put to you is this: do you wish to abolish the exception which is now given in the Act, in favour of obtaining or communicating information; or do you only wish to oppose the extension of the exception to peacefully persuading?—If under that clause 100 people could attend at a place for an unlimited time, then I say the law ought undoubtedly to be altered.

1260. (Sir William Lewis.) Would it not be better, before the next meeting, for you to consider from the point of view which Sir Godfrey has put before you, what you have to propose, not only with regard to this particular point, but in dealing with each of the Bills that you refer to?—I am prepared to deal with those now. But what I was going to say was this. Sir Godfrey drew a distinction between receiving and communicating information and the phrase used in this Bill, "peaceably to persuade." To my mind there is no practical difference between the two things.

1261. (Sir Godfrey Lushington.) But you need not exercise your mind upon that point, because the Law Courts have settled that. They have settled that if persons attend with a view to peaceably persuade they are not within the exception. But there is another question that I ought to ask you. It would be open to the Courts, would it not, having consideration to either the number of persons attending or to the persistency with which they attended, to hold that although nothing had passed except question and answer between the parties, nevertheless they were not attending merely to receive or obtain information?—I quite follow that, that there would be intimidation by numbers, or it might be a nuisance, or anything of that kind. But I do not know whether or not you caught the observation I made just now. I am rather anxious that you should, because there is no such thing as peaceable persuasion; there is no such thing as attending merely for the purpose of receiving or communicating information. I speak of that as my own experience.

1262. What would be the information that they would give or obtain, or wish to give and wish to obtain; can you give an instance?—It is generally explained as being to tell the people who are coming to a place to work that there is a strike on. You remember on the last occasion I was here, I read passages from a communication which I addressed to every person whom we had provisionally engaged to come into our employ on the occasion of the strike, when I was careful to say, "There is a strike, and the reason you are wanted is because there is a strike, and you must take certain measures when you arrive at Cardiff to evade the pickets."

1263. But all persons are not so careful or so provident as you are; do you think it is ever necessary for workmen to receive information that a strike is going on? Is it not known?—I have no hesitation whatever in answering that by the word "never." It is never necessary; it is always known that there is a strike; it is always public property.

1264. Supposing that ten persons went to a man who was engaged to an employer against whom there was a strike, and by way of giving information they tell him "You know there is a strike on"; then by way of receiving information they would ask "Are you going to continue to work for that man, or strike?" Supposing that is all that happens, when he says "Yes, I do," do you suppose that answer is received in perfect silence, and the men having obtained the information they require would quietly retire?—Certainly not. It does not end there of course; it either begins or ends in intimidation.

1265. (Sir William Lewis.) It does not require ten men to convey that; one man could do it, and one man could receive the information suggested?—Yes.

1266. (Sir Godfrey Lushington.) I suppose the language which passes between one man and another on such an occasion is not always of a diplomatic character?—Very rarely.

1267. They do not say, "Are you aware that there is a discontinuance of employment in that shop;" but they ask whether he is aware that only blacklegs are employed?—I was going to use that word.

1268. They do not ask him whether he is going to work with the master; but, "Do you mean to say that you are going to be a blackleg?"—That is the phrase I was going to use myself. The first question is "Are you going to be a blackleg?"

FIFTEENTH DAY.

Wednesday, 13th July, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., *Secretary for Scotland (in the Chair).*

Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. AMMON BEASLEY recalled and further examined.

Mr. A.
Beasley.
13 July 1904.

1269. (Chairman.) Will you continue your evidence?—I think I was making on the last occasion some brief reference to the various Bills which have been introduced during the last two or three years. I had referred, I think, to Sir Charles Dilke's Bill of 1903, and I made incidental reference to Mr. Shackleton's Bill of 1903. I have very little to say in addition with respect to those Bills, but Sir Charles Dilke, as you are probably aware, has reintroduced his Bill in the present Session, and with the exception of one clause it is identical with the Bill of last

year. That clause is No. 3. In last year's Bill that clause read in this way: "An action shall not be brought against a trade union or against any person or persons representing the members of a trade union in his or their representative capacity for any act done in contemplation or furtherance of a trade dispute." This year the last part of that clause is dropped out and it now stands simply: "An action shall not be brought against a trade union or against any person or persons representing the members of a trade

union in his or their representative capacity." So you see it does not confine it now to questions of a trade dispute, but will absolve a trade union from proceedings of every kind while leaving intact its right to sue; that is to say, it seems to me that a trade union could not be made responsible for the payment of its debts or the salaries and wages of the persons employed or anything else under that clause. And as I pointed out last time, that would affect not only trade unions of workmen but trade unions of employers; it would exempt employers in the same way. It would exempt, for instance, such a body as the South Wales and Monmouthshire Coal Owners' Association, of which about ninety or 100 of the principal coal and ironmasters of South Wales are members. Their output of coal is probably about 35,000,000 tons a year; yet under that clause they would be exempted from proceedings of every kind. The number of men employed by the members of the Association is probably, at least, 100,000. And then again the workmen themselves have this gigantic organisation to which I previously referred, the Miners' Federation, of 100,000 or over 100,000 members, with agents all over the district. If that clause were to pass, or any similar clause, it seems to me that it would absolve them from all responsibility, even of paying the wages of their own agents. Then there was Mr. Shackleton's Bill of 1903. I have only one thing to say to that. When it was first introduced, it was headed "A Bill to legalise the peaceful conduct of trade disputes," and when introduced it contained a clause providing that an action should not be brought against a trade union by reason of the action of a member or members of the trade union; but this clause was ruled out by the Speaker as being outside the scope of the title of the Bill. By Clause 1 it was proposed to legalise attending at or near a place, etc., for the purpose of obtaining or communicating information and of peacefully persuading a person to work or not to work. Of course, as I stated very fully I think on the last occasion, attending for the purpose of obtaining or communicating information is already legalised by the Act of 1875; and a provision to that effect in this Bill would, therefore, seem to be unnecessary. As regards the extension of the exception or exemption under the Act of 1875 to attending for the purpose of peacefully persuading a person to work or not to work, the intention appears to be that, although the attendance might be for the purpose of inducing a person to break his contract, such attendance should not be considered watching and besetting under the Act of 1875, and therefore, would be exempted from punishment or other legal proceedings. If that was not the intention I do not know what the intention could have been, particularly reading it with the clause which, as I have just now reminded you, was struck out, under which a trade union would be exempt: "An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid, unless it be proved that such member or members of such trade union or other association aforesaid acted with the directly expressed sanction and authority of the rules of such trade union or other association aforesaid." That is the clause which was struck out by the Speaker.

1270. This is news to me; it was a clause struck out by the Speaker, you say?—Yes. You notice that the title of the Bill was: "To legalise the peaceful conduct of trade disputes," and this Clause 3 would have had the effect of absolving a trade union from responsibility.

1271. (Mr. Cohen.) In a civil action?—Yes. The Speaker ruled that it was outside the scope of the title of the Bill. Therefore, when it came before the House it was minus that clause. I simply refer to it because reading it in connection with Clause 1 it presents itself to my mind that the object of the framers of that Bill was really to legalise the breaking of contracts. There is one observation I should like to make with regard to that Clause 3.

1272. (Chairman.) It seems to me that you are speaking about a clause which is not in the Bill?—It was not in the Bill as it was voted upon in the House.

1273. This year?—No, last year—1903.

1274. Mr. Shackleton's Bill was never passed last year?—No, it was not.

1275. I do not mean by passed that it was not made an Act; it was not even given a Second Reading?—No.

1276. An amendment was carried against it?—Yes; but it occurred to me that it must be of interest to this Commission to know the various forms which these Bills have taken, because they are all framed by the same body of people.

1277. Quite so; and you are perfectly right, of course, in this: that if a particular clause was struck out, as inconsistent with the title of the Bill, that clause might reappear again in another Bill with an appropriate title?—Yes, and it does reappear as to a part of it in the Bill of this session. I just want to say two or three words with regard to the difference between that Clause 3 of the Bill of last year and the clause as introduced this year.

1278. (Sir William Lewis.) It virtually reappears in another Bill brought in this year by Mr. Paulton?—Yes.

1279. (Chairman.) First of all the clause originally appeared in the Bill as printed, but was struck out by the Speaker as being inconsistent with the leave to introduce?—Yes.

1280. I think it will be as well if you read to us the clause as it was and as it is now?—Originally it was as follows: "An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid unless it be proved that such member or members of such trade union or other association aforesaid acted with the directly expressed sanction and authority of the rules of such trade union or other association aforesaid." As it appears in the Bill of Mr. Paulton this year the last part of that clause drops out. "An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid." The other part of the clause goes out. The remark I was going to make with regard to that is this: that although it drops out of the Bill of this year, there is practically no difference between the two, for the reason that the rules of a trade union might be so framed as to render it impossible for a strike to be carried out except in a manner which would be contrary to the rules. Therefore that would really leave the trade unions to make the law in fact by so framing their rules as to render them not liable in the event of a strike.

1281. I think as a matter of fact you are subtler than need be. I think it is perfectly clear that this section as it stands would prevent the recovery of damages against a trade union, even supposing they had ordered an assault to be committed: but they never would have rules drawn for an assault to be committed?—That was the suggestion that I made. And there is just one brief observation made by Mr. Bell with regard to that Bill which I should like to read, because it is generally understood that he is the author and the prime mover in these Bills. This was a speech he was making in September 1903. It is reported in "The Railway Review" of September the 18th. "Mr. Bell, M.P., held that they could only reasonably defend the violation of rules when that violation was committed by an executive. In his own association if the executive had adhered to the rules there would have been no Taff Vale Judgment. He failed to see where they could meet their opponents in the House of Commons when they asked to be placed in a position quite different to others under the civil law. They argued that employers should be responsible for all accidents to workmen, never mind by whom or how caused. On the other hand they asked that whatever action might be committed, intentional or otherwise, by the rules of the organisation or its officials, they should not be responsible. He thought that was illogical." I have nothing further to say with regard to Mr. Paulton's Bill of this year; it is practically the same as last year's Bill with that exception; and, of course, as I pointed out with regard to Sir Charles Dilke's Bill it exempts not only trade unions of employers but individual employers and their agents, in precisely the same way as it would exempt trade unions of workmen and their agents. That, I think, is all I have to say upon the question of those Bills.

1282. (Sir Godfrey Lushington.) Is there anything exempting individual employers?—Yes; if you refer to the first clause of Mr. Paulton's Bill of this session

Mr. A. Beasley.

13 July 1904.

Mr. A. Beasley.

13 July 1904.

it says: "It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trades union or other association of individuals registered or unregistered, in contemplation of or during the continuance of any trade dispute to attend for any of the following purposes at or near a house or place where a person resides or works or carries on his business or happens to be (1) for the purpose of peacefully obtaining or communicating information, (2) for the purpose of peacefully persuading any person to work or abstain from working." You see it does exempt the individual as well as the trade union.

1283. It does in that case, in the case of watching and besetting?—Yes, no doubt.

1284. But it does not exempt an individual from responsibility for his own actions?—As far as that first clause goes.

1285. (Chairman.) And the effect of Clause 3 is to sweep away the Taff Vale Judgment?—The question to my mind is, what is really intended by this Clause 3, "by reason of the action of a member or members of such trade union." If it means the unauthorised act of an isolated member or isolated members of course they are not responsible now and cannot be responsible, because they would not be the agents of the union.

1286. That may be very true, but you can only arrive at that after an expensive and difficult inquiry in which the person has to stand his chance; whereas, of course, if this clause was law, the action would fail. You would get there at once that great advantage. It does not necessarily follow that it is pleonastic, because, as you point out, no doubt on a just view of the circumstances an action would not eventually be held to lie. You get a very short road to it?—What occurs to me with regard to that is this: If that is the simple meaning, then it accepts the Taff Vale Judgment as it stands. If that is not the meaning, it simply means that a trade union is not to be responsible for the acts of its agents.

1287. I think your latter view is correct; in other words, the greater includes the less, and not only are a member or members of a trade union not responsible—what you call an independent member—but also an official, assuming him to be a member of the union, is not responsible?—Exactly. You see the use of the word members is no doubt suggested by this fact, that as regards a trade union of workmen every official, everybody connected with it, must be a member by the rules.

1288. Obviously it would throw over a case which I do not suppose arises in practice, but which might arise in practice, of a trade union appointing as an official a person who was not a member. Of course, trade union practices are so different from that, that it is not very likely, and of course they would not do it if it were to destroy the protection of Clause 3?—No doubt.

1289. (Sir William Lewis.) Their rules, I think, require them to appoint all officials only from the members?—Yes, every official must be a member. But there is one fact (I had almost forgotten it) which I might mention, that in the Taff Vale case the union employed and paid men who were not members; they went outside and paid men for picketing, and some of these men committed outrages who were not members. That clause would not, of course, exempt them from responsibility in such a case as that.

1290. Those were the pickets you mentioned at various distances?—Yes. The majority of the pickets, of course, were members.

1291. (Chairman.) I would not be so sure that you are right, if you supposed this clause to be the law and came to argue upon it. Let us assume, for ease of circumstances, the grossest case of actual assault, something that is undoubtedly illegal. That in the case you are putting would be committed by a person who was not a member of the trade union?—Yes.

1292. But then on the other hand, that person was employed by the trade union in some way or other, and from the fact of his being employed as an agent the action might be in one sense the action of a member of the union, I do not know whether it would come to that, but I can quite see that the argument would hold?—That is the act of employing an outside person.

1293. In other words, at this present moment if you take

the stages by which you reach a trade union under these decisions, you, first of all, have an assault committed. There is a wrong done. That, of course, undoubtedly gives you an action against the person who does it as an individual?—Yes.

1294. Then you want to get further. The next link in the bridge is something or other that the trade union itself has done. Here it is the employment of this person as a servant for certain purposes, namely, the furtherance of the strike; and upon the ordinary law of agency you get at the trade union then very much as you get at the master and coachman?—Yes.

1295. I could imagine that if this clause had been passed it would have been said, "You cannot do that because you are really going through an action," namely, the action of the employment?—I quite follow.

1296. I do not think you are safe in assuming that it would be so?—I quite follow your reasoning. Then it was suggested that if I had any recommendations to make as to an alteration of the law, I had better do so on this occasion. As regards the present state of the law as between a trade union or combination of persons and an employer, my view is, that the present law properly invoked would give the employer who has been struck against, a remedy for every wrong committed. But at the same time I cannot disguise from myself the fact that there are other interests besides those of the employer to be considered in such a matter; and particularly is that so in the case of a railway. You may remember that some days ago I rather insisted upon this point, that there was a difference in the case of a railway; that there was a third interest beyond that of the person employed and the employer, namely, the interest of the public; and in the interest of the public, and in the interest of the individual members of a trade union, I think it is necessary that there should be some alteration made.

1297. Do you mean with a view to railways only?—No, not with a view to railways only.

1298. I think if you think over what you were insisting on, you will find that there is no difference in principle between a railway and anything else; it is only a difference in degree. There is a tremendous difference in degree, because the dislocation of a railway affects the public with an immediate action that it is difficult to find in any other trade; but I think you will find that really the interest of the public is precisely the same in anything else. In the case of a baker the public can go elsewhere and get their bread; whereas if you want to be carried on a particular railway from Station A to Station B, and it is the only line and there is no other means of going, that is what makes the effects of a strike so immediate and powerful; but I do not think there is a difference in quality?—I put it in this way: that the public have a more direct and immediate interest.

1299. Yes, a more immediate interest?—I was going to refer you to Sections 4 and 5 of the Conspiracy and Protection of Property Act, 1875. The operative portions of those sections are these: Take Section 4: "Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by Act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town or place, or any part thereof, with gas or water, wilfully and maliciously breaks a contract of service with that authority, or company, or contractor, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone, or in combination with others, will be to deprive the inhabitants of that city, borough, town, place, or part, wholly or to a great extent of their supply of gas or water, he shall, on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20, or to be imprisoned for a term not exceeding three months with or without hard labour." Then I had better read Section 5: "Where any person wilfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to endanger human life, or cause serious bodily injury, or to expose valuable property whether real or personal to destruction or serious injury, he shall on conviction thereof by a court of summary jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding

£20, or to be imprisoned for a term not exceeding three months with or without hard labour."

1300. (*Mr. Cohen.*) Those sections only apply to cases of breaches of contract?—I agree. It seems to me that that Act, having been passed almost before the time of the electric light and probably entirely before the time of the electric light being supplied by a municipal authority, an extension to electric lighting under that section is a very natural extension, one which probably it would be considered ought to be made; and then if you introduce electric light belonging to a municipal authority, it seems to me that you also let in all other electrical undertakings of a municipal authority, including electric tramways for the public conveyance; and by a very natural transition, therefore, you come to a railway conveying the public traffic. Accordingly, either by an amendment of that clause or of Clause 5 you will get at what was really in my mind, that there should be some protection in the interests of the public against the wanton stoppage of a railway in order to gratify the vanity, the ambition, or the vindictiveness, of an individual such as that which led to the Taff Vale strike. And I would take it somewhat further. As you said just now that is for breaches of contract. I would take it a little further and make it an offence for persons to conspire together to induce persons to send in their notices as a whole, with a view, of course, of giving rise to a stoppage. It might be considered perhaps going a good deal further or somewhat further, at all events, than the circumstances of the case would justify; but I do think it is of considerable importance that the law should step in to prevent, in the interests of the public, the stoppage of all means of communication. It might be done either by making it an offence to conspire together to induce the whole of the servants of a railway company or other corporation, whichever might be affected, or a certain portion of them, say, more than 20 per cent. or some other proportion of the persons employed, to give notice at the same time. But I simply throw that out as a suggestion, because I do think that in some way or other the interest of the public, as regards conveyance at all events, should be safeguarded.

1301. (*Chairman.*) Your latter suggestion, going on to make it an offence to conspire together to ask people to send in their notices, would practically stop the power of really all employees in the business of supplying light or water, or transit, organising a strike at all?—I am quite alive to that; that is involved, no doubt, in that suggestion.

1302. (*Mr. Cohen.*) You know that those sections were introduced on account of another Act, which repealed the statutes which made workmen who broke their contracts punishable?—Yes.

1303. Formerly a workman who broke his contract could be punished?—Yes, I quite follow that.

1304. Then came a statute which repealed that statute?—Yes.

1305. Then it was thought that in certain cases the consequences of breaches of contract would be so serious that those sections were introduced into the Act of 1875?—I had that in my mind.

1306. (*Chairman.*) You are bound to face this also: that when this was done railway companies were common?—Yes, I quite gather that. What I had in my mind as a very strong fact was, the stoppage of the mails in that case of the Taff Vale strike, and the threatened stoppage of the whole of the Barry Railway if they presumed to carry the mails which the Taff Vale Company were unable by reason of the strike to carry. I think there should be some means of meeting a case like that; and that does go a long way towards my point.

1307. (*Sir Godfrey Lushington.*) What point are you discussing now; are you discussing the question whether breaches of contracts by railway servants should be made penal like those of servants to water companies or lighting companies; or are you discussing the extension of the principle so that inducements to strike without breach of contract should be made penal when the consequences to the public are serious inconvenience?—I hold that an inducement to send in notices as a whole for the purpose of causing a strike, and thereby paralysing the means of conveyance, ought to be met in some way.

1308. (*Sir William Lewis.*) Take your own case of the Taff Vale: the stoppage of your line was not only a very great inconvenience to the public who were using that line, but it practically stopped the whole of the industries in that district?—It did.

Mr. A. Beasley.

13 July 1904.

1309. It stopped at least 50,000 colliers?—It stopped all the docks, it paralysed the shipping, as well as stopping the passengers.

1310. (*Chairman.*) It is not my business to suggest, but if you wanted a principle to hang it on, I think you would get a better principle, not so much upon the mere question of carriage as opposed to other things, but upon the idea that you might call in aid these extra powers wherever the particular business was one that was given a monopoly of the position by legislation?—Yes. I am glad you have reminded me of that, because I ought to have said that I would include all cases where the undertaking struck at is an undertaking authorised by Parliament, a statutory undertaking as docks are.

1311. (*Sir William Lewis.*) I observed that you did not extend your suggestion to docks?—No, I meant to have included docks; it is precisely the same thing.

1312. You did not mention them?—It is precisely the same thing. They are statutory undertakings, and the interest of the public is direct and instant in the case of a dock, the same as of a railway.

1313. Because if you succeeded in getting what you are suggesting *quid* men employed on railways, but did not apply it to docks, of which that railway might be one of the sources of supply, you might still be in the same position as you are at the present time?—Yes, I agree.

1314. (*Chairman.*) Much more may be taken on that line than on the other, may it not; because, after all, the granting of these powers by Parliament always implies a contract on the other side to go on; that is to say, you cannot abandon a railway without an Act of Parliament?—Yes, there is that correlative obligation on the undertaking to go on and to perform the service.

1315. And that obligation is, of course, in favour of the public?—Undoubtedly.

1316. (*Mr. Cohen.*) It is for that reason that compulsory powers of acquisition are given?—Yes, exactly. Then if you remember, I said just now that in the interest of the individual men and the interest of the public I had one or two suggestions to make; not exactly in the interest of the employers against the trade union, because I thought the law properly invoked would give them all the protection they could reasonably ask for, but rather that the rights of the members to the benefits they had paid for should be secured, and that expulsion should only be allowable on grounds which justify expulsion from a provident or friendly society. This unchecked and uncontrolled right to expel a member undoubtedly does produce a state of terrorism, and does enable a trade union to bring pressure to bear upon men to do what otherwise they would not do. I cannot give you a better illustration of that than in the words of one of the drivers of the Taff Vale who was prevailed on or compelled to strike. At a meeting the strikers were holding to consider the suggestions made through Sir Francis Hopwood for the settlement of the strike, when those terms were rejected, he was the only man who raised his voice against the rejection of the terms. "Mr. Skillin" (that is a Taff Vale driver) "moved an amendment that they accept the conditions with such modifications as the Committee might secure. Some of them knew that they had placed themselves in an illegal and illogical position. Those who had come out to help the others without tendering notices would suffer the most. This matter was going to be fought out a good deal further. A large number of the men were not consulted in this matter, and many were prevented by force from doing what they believed then, and what they believe now, was a duty to their employers. He held that a workman's first duty was to his employer, then to himself, and then"—he was stopped with laughter—"they could hiss," he said, "as much as they liked, but any honest man who considered the question well would come to the same conclusion." There was a man speaking who had been coerced into giving his notice and leaving work on the Taff Vale. I also think that the Provident funds of a trade union should be kept separate from the protection and strike funds, and should be safeguarded so as not to be

Mr. A.
Beasley.
13 July 1904.

drawn upon to pay for a strike or its consequences. Some difficulty might arise as respects so-called out of work funds, as some unions call them; because those funds might be used either to relieve genuine distress, or to pay men who were out of work in consequence of a strike; therefore I think that means should be devised for ear-marking and defining the objects of those separate funds. Again, without interfering with the right which every man enjoys of withholding his labour, if he does not commit a breach of contract, a man who is willing to work should be protected from coercion, intimidation, or other undue pressure to compel him to cease work. By that I mean, not only the coercion which is used during a strike to force men out who are willing to go on working, but coercion such as that used in the Taff Vale case, to compel them to send in their notices whether they wanted to do so or not. I would also say that coercion used to limit a man's earning capacity or ability to work should be rendered illegal, as well as any agreement or combination to restrict output, which is one of the greatest evils from which we are suffering at the present moment. It has been suggested times without number that a trade union or the workmen have not the same rights as an employer in the event of a trade dispute. Of course I draw a great distinction between the two things, a trade union and the workmen, because the interests of a trade union and the interests of workmen are by no means identical. The interests of the workmen would have been thrown overboard at a moment's notice during the Taff Vale strike, if only the union had been recognised. But it is suggested that the workmen or the trade union have not the same rights as an employer in the event of a trade dispute. The employer they say is able to persuade, and is allowed to persuade and pay men to come into his service to take the place of strikers, while the trade union is not allowed to persuade or prevent those persons from entering his employment. That is a way of putting it which I think is not justified; because it seems to me that the right of an employer and the right of a trade union or of workmen who have struck is exactly the same. The employer certainly has the power, if he chooses to exercise it and can exercise it, to persuade men to enter into a contract to come into his employment. The workmen and the trade union, on the other hand, have the power, if they can exercise it, to prevent men from entering into such a contract. What is objected to and what of course the trade unions have been punished for is, getting men to break their contracts after they have once entered into them. But if there should be any doubt as to whether there is any difference between a trade union acting on behalf of workmen, and an employer acting for the preservation of his own interests, it seems to me that all such questions as the assumed inequality of the law by which trade unions are prejudiced would determine themselves by the simple remedy of making trade unions corporations, or giving them liberty to become such by registration or otherwise. If a corporation, an ordinary company, has rights which the trade unions have not, then give them those rights by putting them on the same footing. Those are all the suggestions which I think I have to make on the subject.

1317. (*Sir Godfrey Lushington.*) Have you thought that out? Supposing that a trade union was put altogether on a legal footing, then the agreement of the workmen with the trade union not to work except on certain conditions would be legal, and if the workmen did not carry out their contract the trade union might take proceedings in a law court to compel them to do so, by an injunction to prevent, say, 1,000 men working. Would you be in favour of that?—That would of course all depend upon the conditions. You will remember that I coupled with that suggestion the suggestion that anything which would restrict output, or interfere with the man's ability to work, or his earning capacity or right to engage himself where he pleased, should be punishable.

1318. (*Mr. Cohen.*) You mean that such a covenant or agreement might be illegal, because of undue restraint of trade?—Exactly. I would not do anything to restrict the individual in the exercise of his judgment.

1319. (*Sir Godfrey Lushington.*) The result of that would be that a trade union would have all the disadvantages of incorporation and none of the advantages?—I thought that they would have all the advantages

which any other corporation would enjoy, to carry out the objects for which it was formed. I see I have made a note here with regard to what I considered to be the thing that ought to be most carefully preserved, and that is, the free right of an individual to dispose of his labour as he thinks proper, and that if the effect of any combination was such or might be such as to interfere with the man's free judgment and election, it ought to be illegal: that everything in fact which interferes with a man's freedom of action ought to be made punishable. And also this, I think, rather bears on a question you put to me the other day: If anything which when done by an individual is ineffectual—that is, as respects interference with another's perfect freedom—becomes effectual when done in combination, it ought to be punishable as a conspiracy. I would safeguard in every way the freedom of the individual. It is that which I consider is the most essential thing in connection with trade disputes.

1320. (*Chairman.*) Are you prepared to apply precisely the same law to combinations of masters as to combinations of workmen?—I think so. For the life of me I cannot conceive why combinations, either of workmen or of employers, should have any exceptional treatment, or why they should be allowed to do what everybody else is prevented from doing. The employers do not ask for it, and yet any one of these Bills would give them a position of freedom which is not enjoyed by people who are not in the position of employers.

1321. (*Mr. Cohen.*) Supposing the employers agree not to employ members belonging to a trade union, would that be illegal in your opinion?—I think not: that would not be interfering with the freedom of the employer.

1322. That ought to be legal, you think?—I would not interfere with his right to do that.

1323. (*Sir William Lewis.*) Do you draw any distinction between employers carrying on large concerns subject to Acts of Parliament, and employers carrying on their works independently of any Act of Parliament?—To the extent that I have already explained when the interest of the public is direct and immediate.

1324. (*Sir Godfrey Lushington.*) As the manager of a large company do you conceive that you have the right of discharging a workman from your service?—Undoubtedly; you must have that.

1325. And all the workmen?—Yes, undoubtedly.

1326. You have also advocated the principle of equality between master and men, have you not?—Yes.

1327. At the same time you wish to make it penal for workmen to combine together to strike all at once against the employer?—Yes, undoubtedly, in the circumstances I have explained.

1328. There is, therefore, a clear antagonism between the positions. The master can dismiss all the workmen, but the workmen cannot leave the master?—Would there be any difference? If you grant the employer the right (which he must have) of dismissing one individual, he must have the right of dismissing the whole, subject to any right of action which any one of those persons would have. Every employer of labour must have that. A person in his own household must have the right to dismiss the whole of his servants if he thinks proper.

1329. (*Mr. Cohen.*) Then any workman has the right if he can do so without breach of contract, to leave the service of the employer?—Yes; and they might all leave in just the same way.

1330. They might all combine to leave therefore?—You will remember what I said with regard to that the other day; that so long as the freedom of the individual were not interfered with, I would not say that that is wrong. I have never said it was wrong. You remember the other day you asked me one or two questions upon that point, and I could not go so far as to say it would be wrong; but if there was any coercion, any intimidation or interference with the freedom of the individual then I say it should be made illegal.

1331. (*Chairman.*) Apart from coercion, do you think it would be right that a set of workmen should combine—not workmen in one employment, but workmen, say, in one trade—to persuade all workmen in that trade to avoid taking service or to leave the service

if they are already in it, not accompanying it with breach of contract, I mean on proper notice, of a certain specified employer. Supposing that there is a certain employer whom the trade union does not like, let us suppose, because he is a person who in their judgment is inimical to the interest of the working class generally, and supposing that a trade union issued orders so far as one can call them orders, to the whole of the workmen not to take service with that employer, what would you say?—In that case the element of intimidation, I think, would come in.

1332. But where is the intimidation exactly in that. I am not supposing that a man is to be actually intimidated?—The mere fact of a trade union issuing an order to the men in a particular employ to leave that service, would be coercion, intimidation.

1333. May I just carry that out. Now take the converse case: Supposing that a workman is a well known agitator and rather a disagreeable person to have in the work—again, in a large trade—and there is a combination of masters in the trade, and the executive of the masters send round a circular in which they say “It will be strongly for your advantage—we strongly urge you not to employ this man; the particular works he is at present employed in are going to kick him out so soon as his term of service expires—do not take him on; you will find if you do it is a great mistake and he will make himself very unpleasant. Let us agree that in future if any man behaves like him we will have him out, too,” is that illegal? It is there you see that you get into the great difficulty in one sense of having exactly even treatment between workmen and masters?—In a case like that I should assume that the person combined against would have a right of action even under the existing law, would he not?

1334. I do not know. At present there has not been a case against what you would call blacklisting.

1335. (*Sir William Lewis.*) I observe that in the case of a number of men giving notice, you assume that the men would be coerced into giving that notice. But supposing that they are not coerced; that the men combine together to give notice, the whole of the men of the Taff Vale Railway Company, for instance (they did so partially before), they are quite within their rights to terminate their work at a particular day. True it is that a certain number who had not given notice terminated too. If I understood your suggestion rightly earlier this morning, you would wish to provide that that should be limited to a certain proportion of men if employed by a railway company, or a similar company, carrying on their concern under Act of Parliament?—Yes, that there should be some means of safeguarding the interests of the public which would be directly involved in the stoppage of any one of those undertakings.

1336. You do not appear in your answers to the Chairman subsequently, when you advocated that the employers and the unions should be treated alike, to have given your answers with any qualification for such a provision as you indicated before?—Of course I assumed that any later answer I gave would be subject to what I had previously said.

1337. (*Chairman.*) I quite see that, and I think you are very frank with me; because honestly you quite admitted that so far as the railway and gas position was concerned, really it meant that you could not strike?—Yes, I quite agree; and I believe rightly so.

1338. I quite understand. But you face the consequences, I mean?—Yes.

1339. (*Sir Godfrey Lushington.*) You know that there are cases in which a notice given by a delegate on behalf of the men, that they will all cease working not in breach of contract, has been held to be intimidation of the masters?—I can quite conceive that it would be a measure of intimidation.

1340. They say, “unless you raise our wages, we will all cease work, and your trade will be ruined”?—Yes.

1341. Do you call that intimidation?—I can quite conceive that it would be a measure of intimidation.

1342. But in what does the intimidation consist?—If it were at the instance of a trade union representing

an enormous number of men outside the men in the employ of the particular individual, then you see it is bringing to bear all the force and influence, or the coercion if you like to put it so, of this very large body.

1343. Then I will take the opposite instance, of a master who says to his men, “Unless you will accept 20s. instead of 30s. I close the works”?—Which the master would have, of course, a perfect right to do. He takes all the risks of his business.

1344. There would be no intimidation?—No, no intimidation.

1345. And even if he had a body of powerful masters behind him, on whom he could rely to support him in the struggle, there would still be no intimidation?—Would the question of intimidation arise there at all?

1346. I want you to contrast the two cases?—A man must be the best judge whether he can afford to carry on his business or not, or on what conditions he can carry on his business.

1347. Do you not think in the same way the workmen, or union of workmen, are the best judges of the conditions on which they would spend their life and labour?—I quite agree that the workman has just as much right to say to the employer, “I cannot afford to work under a certain wage.”

1348. But then you have stated that in one case, the case of the workmen, it is intimidation, and in the case of the masters it is not intimidation?—But intimidation might arise. It all depends upon the circumstances of the case really. In the case you put of an employer telling his workmen, “Unless you work for me for 20s. a week instead of 30s. I must close my works,” I cannot conceive that the element of intimidation will arise there at all. It is an ordinary business precaution that a man must take who finds that his expenses are exceeding his profits.

1349. Then how can the intimidation arise if the workmen go to the master and say, “Unless you raise our wages from 20s. to 30s. we will all leave you and the works will be closed”?—Supposing that I were in that position myself, and my workmen came to me and said that, they would be perfectly within their rights in saying it. They would have just as much right as I should have if I said, “I must close the works unless you accept a certain wage.”

1350. (*Mr. Cohen.*) And that would not be illegal intimidation in that case?—I cannot conceive that anything illegal would arise on either side. But if you bring into the transaction all the power and influence of an enormous trade union, who say to you, “Unless you agree to the terms your men are asking we will stop your works,” then there is the element of coercion in it.

1351. (*Sir Godfrey Lushington.*) Then I understand the intimidation by the union of which you speak is intimidation, not of the master struck against, but of the men who are compelled to join the strike. Can you enlighten us upon the subject of the nature of the intimidation which is exercised by the trade union towards the men, and exhibit exactly what is the illegal ingredient in it?—I think I have given several instances, at all events.

1352. (*Mr. Cohen.*) I think you have shown them. You say that a trade union has naturally and of necessity great power over its members?—Yes.

1353. When, therefore, a trade union directs or orders its members to do anything it exercises a very formidable power, which the men cannot resist?—Yes.

1354. And you draw that distinction do you not, between the case of a trade union ordering its members to do or not to do a certain thing, and the case of one or two employers combining?—Because the same elements would not exactly arise. One or two employers could not exercise coercion over an individual employer. If they did, then I would put them in precisely the same position as I would put a trade union, if they coerced the employer into doing what he did not want to do. Just let me remind you of an instance I gave which showed how potent this pressure was upon the individual. In the Taff Vale fitters’ strike, every man was anxious to remain in the service of the company, but every man was forced to give in his notice under the threat of expulsion from the union.

Mr. A. Beasley

13 July 1904.

Mr. A.
Beasley.
13 July 1904.

1355. I quite see the force of your distinction, if you will allow me to say so ?—If you make that man independent of that threat, then the man can exercise his own judgment and either stay with his employer or not, as he pleases.

1356. There is one case that I should like to have your opinion upon. Supposing there is a great strike among miners in a district, that strike would seriously affect your railway would it not ?—Yes, it would.

1357. Now, supposing that the servants in your employment were encouraging that strike, do you think the railway company would be justified in giving notice to all those in their employ who supported a strike in the mines, that they would be discharged ?—Of course, that case, like every other, must depend upon the circumstances.

1358. (*Chairman.*) I knew you would say that ; therefore I want to put this, which I think will suit Mr. Cohen. Supposing your own men met and passed a resolution that every man should contribute a shilling out of his pay to the strikers, there would be an overt act about which there was no question at all ?—Yes. If we felt that that act on their part was so injurious to us and so contrary to what one might consider to be their duty to their employers we might feel justified.

1359. Pardon me, those are all epithets. I have given you a very concrete case ; it would be just one shilling's worth against you, and if it were made two and sixpence it would be two and a half times as great ?—I can only say that I do not think any consequences would follow, because it might not be worth our while to do it, to run our neck into the noose for a thing like that. But we should be perfectly justified in discharging them, I am certain.

1360. (*Sir William Lewis.*) But it might be done by combination ?—Yes, if we chose to take notice of it.

1361. (*Mr. Cohen.*) You think you would be justified in discharging them ?—I think we should be perfectly justified in discharging them if we thought the circumstances justified it and that we could run the risk which would follow.

1362. (*Sir Godfrey Lushington.*) But to go back to this question of coercion, take the case of the fitters whom you have mentioned. The fitters you say all wished to remain in the service of the company ?—Every one of them.

1363. But they all gave way at the instance of the union ?—Yes.

1364. You would say, under the coercion of the union ?—There was an absolute threat. The man said distinctly, "If you work for the company on these terms everyone of you shall be expelled from the union."

1365. That means they preferred to stay in the union rather than go on working for the company ?—Yes, for the reason which one man gave me himself, a highly respectable man who had been in our service a great number of years, "I have been paying into this union the whole of my life practically ; I am getting on in years, I am looking forward to certain benefits and I cannot run the risk. I must go out."

1366. How is that illegal compulsion ? He entered voluntarily into the union on certain conditions as to his pay or pension, or whatever it might be ?—I do not say it is illegal ; in all probability it is perfectly within the four corners of the rules.

1367. (*Chairman.*) It is just the difference, is it not, to use the old phrase, of the man who has given hostages to fortune and the man who is free ?—Yes.

1368. (*Sir Godfrey Lushington.*) But where does the illegal coercion come in towards the fitters ?—I did not use the word "illegal," I think.

1369. But I do, because coercion which is not illegal is immaterial to us ?—I should like to make it illegal, in the interest of the workmen, the true interest of the workmen.

1370. You wish to make it illegal ?—Yes ; that was one of the suggestions I ventured a little time ago to make.

1371. (*Mr. Cohen.*) Of course this power of coercion which you have shown exercises great force in the minds of the workpeople, also enables the trade union, does it not, in some cases to prevent strikes which individual workmen are apt to engage in. The evidence before the Royal Commission rather proves that strong trade unions

generally prevent strikes rather than encourage them ?—I do not go with that at all. The greater the influence of the trade union, the greater the danger of a strike.

1372. (*Sir Godfrey Lushington.*) With regard to illegal coercion, supposing there is a trade union of employers and that one of the rules is, that if an employer, a member of the union, continues to employ persons during a strike or persons who have been dismissed by others, he shall be expelled from that union ; and supposing that a strike takes place when an employer has some very valuable contracts that he wishes to finish and he desires to go on continuing the workmen in his employ but he does not do so, knowing that he will be turned out of the union and will not have the union at his back on the occasion of another strike, does then that union exercise coercion against the individual employer and is that coercion illegal ?—I should say not if it is in accordance with the rules of the association which the man voluntarily joined.

1373. That is exactly the case of the fitters ?—It is exactly the same.

1374. But you say that you wish to make the case of the fitters a case of illegality. Therefore, you must do the same to the employers ?—No ; because the individual workman is not in a position to protect himself. I would give him that protection which he cannot get for himself.

1375. (*Sir William Lewis.*) Have you had any reason for changing your mind with respect to recognising the union since the Taff Vale strike ?—None whatever.

1376. So that your suggestions would not involve any recognition of the union by either employers or an association of employers ?—The employer in the exercise of his judgment must be left free to recognise or not to recognise the union as he thinks proper.

1377. (*Sir Godfrey Lushington.*) The workman, you say, who wishes not to join a strike, cannot stand alone, and therefore you wish to protect him against his union ; but, at the same time, if a workman seeks for a rise of wages, you have no hesitation in refusing to deal with the union on his behalf though the union is acting for the protection of that man ?—Yes, exactly.

1378. Therefore the workman is not to have the benefit of the protection of the union in dealing with you. On the other hand, if the union calls upon him to strike and offers to protect him it is said to be tyranny towards him ?—It is not protecting the man that I call tyranny at all ; it is interfering with a man's right of judgment. I think there is a great deal of misapprehension on the point which you have mentioned as to a trade union being a protection to a man. I think in most cases it is anything but a protection. The union exists for its own purposes, to further its own interests, and those interests, as I said just now, are very often not the interests of the workmen.

1379. (*Mr. Cohen.*) And you do not think that trade unions have conferred benefits really upon workmen ?—I have no hesitation whatever in saying that they have not. I think they have done, if it were allowable to go into that question here, an incalculable amount of mischief to the individual working man. A good deal has been said, and probably would have been said by Mr. Sidney Webb if he were here, about collective bargaining. Of course there is no such thing as collective bargaining, nor under the present state of the law can there be anything like collective bargaining. But the pernicious effect of what is called collective bargaining on the individual man, I think, is very grave indeed. I should just like on that subject to read a few words from a letter written by a trade union leader, whose letter I am at liberty to use, although I am not at liberty to state his name. He deals with various matters, but on this point he says, "I am fully persuaded that the fixing of standard rates of wages and the maintenance of one dead level of working conditions has a tendency of keeping smart men back preventing them earning as much as they otherwise could earn, and produces a very mischievous spirit. I know of no method by which this evil tendency can be corrected other than the establishment of piecework conditions of labour" (you remember the unions, as a rule, sit upon piecework ; they will not have it) "and the introduction of as much individual bargaining as can possibly be brought about. There is now no competition amongst the workers ; with the result that there is no spirit of

enterprise or ambition to succeed, and the good man is only rewarded in the same degree as the worst man. I believe that large numbers of men are dissatisfied with this condition of things and desire to see an alteration brought about. I am afraid, however, that employers never offer any inducement in the shape of higher pay to the more intelligent and active worker. If you have time to go into this question more fully, I would advise you to pursue your inquiries along these lines, and and I think that you will find that one of the causes of American industrial success is because of the individual bargaining and the system of individual rewards in vogue in that country; whereas in this country we crush the individual under conditions which are at once irksome and which are so far-reaching in their effects as to make it impossible for the individual workman to get outside these conditions." That is exactly my view. I say that the operations and influences of trade unions are injurious to the last degree to individual workmen. The writer of that letter says that the employer offers no inducements to the individual man. For this reason: the trade union says you must pay all men alike, good, bad, and indifferent, and if you were to pay an exceptionally good man exceptional wages you would at once foster a demand for bringing all men up to the same level. And I have heard trade union advocates justify that by saying, "It is in the interests of the bad workmen that we do this; because unless we bring him up to our level and keep him there he cannot help himself."

1380. (*Sir William Lewis.*) I may say that the statement does not happen to be true that employers do not encourage the best men?—It is certainly not true so far as the railway companies are concerned.

1381. Nor so far as collieries are concerned.

1381a. (*Chairman.*) I must put in a word for the absent Mr. Webb. I am quite certain that if he had been here he would not have taken from you in what you said a moment ago, that it is the invariable practice of unionists to frown upon piecework?—I do not think I used the word invariably.

1382. That was the spirit of it?—In the instances I brought before you.

1383. (*Sir Godfrey Lushington.*) I think there is a good deal more to be considered before we get to the bottom of the word intimidation. Let me put to you these cases. Supposing your gardener says, "I am now receiving 25s., but I will leave your service unless you raise it to 30s.," does that man intimidate you?—Certainly not; he has a perfect right to say that.

1384. Supposing that twenty workmen in your service say: "Unless you raise our wages from 25s. to 30s. we will leave you," is that intimidation?—They have a perfect right to say so, if they have not intimidated anyone of the twenty.

1385. Supposing 200 do the same?—Then my answer would be the same, subject to the same qualification.

1386. Now, supposing instead of 200 the union delegate comes forward and says, "These 200 men form a portion of 2,000 men in the union, and we call upon you to raise their wages from 25s. to 30s.," is that intimidation? I want to know exactly the point at which the character of illegality attaches to what you call intimidation?—I should say if the trade union official came to me (assuming that I consented to see him on such a subject—which I should not do in all probability) he would not intimidate me. The question would be, whether any of the 200 or 2,000 men whom he professed to represent had been intimidated themselves.

1387. (*Sir William Lewis.*) If such a large number of men did so agree, you would say, from your knowledge of such matters, that some of them would have to be intimidated before they would concur?—I am sure the element of intimidation would not be absent.

1388. (*Mr. Cohen.*) You mean intimidation by the trade union?—Yes, of the individual man.

1389. They have always, as you have pointed out so forcibly, had the great power of dismissing any man from membership; so that they have enormous power?—Yes; without assigning any reason whatever they may at once stop all the benefits that man has paid for. They may say, "You must go," and there is no remedy.

1390. Do I correctly understand you to say, that if they exercised that power it would be in your opinion illegal intimidating?—It is not illegal now. I should like to make it illegal, by giving the individual a remedy against expulsion, except for sufficient reasons, such reasons as would apply, for instance, in the case of a friendly society.

1391. You do not think that now according to the existing law that is illegal intimidation, but you would like to make it illegal, for the reasons you have stated?—I would.

1392. (*Sir Godfrey Lushington.*) Can you not imagine precisely the same circumstances occurring without the element of the provident funds coming in at all? You are aware that frequently, in fact, it does happen where there is no established union, but a union improvised without any life funds or sick funds, or anything of that kind. They go to their employer and say, "We strike unless you do so and so." Would that be intimidation?—I have not used the word in connection with the employers at all.

1393. I am not speaking of the employers; I am speaking of the men?—Might I answer it in this way, then? From what I know 2,000 men could not be brought to say that they would strike unless some of them had been coerced, intimidated. The element of intimidation, in my opinion, is never absent from these cases.

1394. (*Mr. Cohen.*) That depends upon what you mean by intimidation. There is one thing which puzzles me. Perhaps you can answer me this question: How is it that any great number of clever, energetic, active workmen join these trade unions?—That is a standing puzzle to me.

1395. Then you cannot help me?—I am afraid not.

1396. (*Sir Godfrey Lushington.*) But your argument is that the more numerous the persons are who agree to take a certain course, the more certainly there is of compulsion having been exercised?—That is my view. With regard to the proportion of men who join a trade union, the proportion is very small after all. The more active spirits bring pressure to bear.

1397. (*Sir William Lewis.*) But you know that members do resort to various devices in order to induce, and, if they fail first by inducement, to afterwards force men into the union?—Yes, exactly.

1398. And the same thing is going on now at the various collieries in South Wales?—Yes—or to punish them if they do not join. I have before me a letter (it is very curious that it should come at this time), which has been handed to me by the officer we call the superintendent of the line, who has charge of all the traffic arrangements and all the working of the traffic on the railway. The letter was addressed to him by one of his men who came to us after the strike, and who it appears is not a member of the union. If I may be allowed to read it, I think it is of very great interest, and throws a good deal of light upon Mr. Cohen's question: "Sir, I very much regret that I should have to make any complaint to you as to the treatment that my wife, children, and myself have been subject to since I came to live here nearly two years ago, but I thought that before I took any further steps that it was only right that I should let you know the facts of the case, as you will doubtless remember you offered me this house" (he is living in one of the company's houses), "because I could not get one at . . . and ever since I took the house the people here have done all they possibly can to make things as unpleasant for me as they can" (I may say that he lives in one of a row of houses belonging to the company, and the persons he refers to are tenants of other houses belonging to the company, and, therefore, servants of the company), "and although for myself I do not care what sneering remarks they pass about me as I walk by, it is very hard for my wife and children to be abused and told that they would have them shifted out of the house, when I am away at work. To give you a brief outline of what I have had to put up with since I came to live here, I may say I was asked by one of the men living here just after I came here if I had attended the meeting at . . . I did not know to what meeting he referred and told him so; but I afterwards learned that it was a meeting of the A. S. R. S." (that is the men's union) "and that this was their means of getting to know if I was a member of same, but as I said I was a member of the National Free Labour

Mr. A. Beasley.

13 July 1901.

Mr. A.
Beasley.

13 July 1904.

Association, this meeting did not interest me, and very soon after this I found that I was to be annoyed at every possible chance; for instance, a few days afterwards, I had just on a quarter of a ton of coals stolen, my shed was broken into and about 30s. worth of tools stolen, my windows were broken at night, my crop of cabbage was destroyed by being cut through with a spade, one of my children was beaten in the street and was ill for several days after. I bought a dog, as I thought this would stop some of the badness, but a few days later some one tried to poison it and did succeed in killing a cat with it. The outhouses have been pulled to pieces and the timber taken away, and only last week when I was in London for my three days leave some one came and tried to burst open the door on two nights out of the three, and as no one but those living in this row knew that I was away I suggest that it must have been one of them. I have given you only a few of the annoyances that I have had to put up with, but sufficient to show the kind of life I have had here, and my reason for doing so is to ask you if you could possibly find a place for me at . . . as you promised to try and do two years ago—if not, I shall have to seek a situation elsewhere, as I cannot go on living such a miserable life, as I have done since coming here. I have now been with the company three years and a half without anything being recorded against me so far as I know, and I should be willing to take either passenger or goods work if you could give me it. I am not afraid of work, and what I want most is a quiet life after my day's work is over—and it is very evident that I shall not get that here."

1399. (Chairman.) When did you get that letter?—A few days ago, just before I came up on the last occasion.

1400. Was the man one of those taken on at the time of the strike?—Since the strike, but a man who came through the Free Labour Association, and was not therefore a member of the union.

1401. (Sir Godfrey Lushington.) But you will agree that every one of those acts that you have mentioned is grossly illegal?—Unquestionably.

1402. And that if the police discovered the offender he would be severely punished?—I agree. But it shows the persecution to which a man is subjected.

1403. Therefore, there is no discussion on that point?—No. The man could get rid of the whole persecution at once if he agreed to join the union.

1404. (Sir William Lewis.) Do you consider that a very exceptional case; or is it one that constantly happens?—It is not at all exceptional, I am very sorry to say. I have had numberless instances.

1405. (Sir Godfrey Lushington.) Have you got no police there?—Yes; we have put the matter in the hands of the police time after time. I have had men actually leave under similar circumstances—run away, because they could not stand it any longer; and they have written to me from a distance, stating that they had been obliged to go because they could not stand it. That is constantly going on.

SIXTEENTH DAY.

Wednesday, 27th July, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Bart.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. REGINALD GUTHRIE called and examined.

Mr. R.
Guthrie.

27 July 1904.

1406. (Chairman.) You are secretary to the Coalowners' Associations of the counties of Durham and Northumberland?—Yes.

1407. You were asked to give us your opinion upon the effect on the interests of employers, and of the trade generally, if you could suppose the various Bills which have been put before you (*Vide Appendices, pp. 7 and 8*), and which you know have been promoted in Parliament during the last two or three sessions, were law on the subject of trade disputes?—Yes.

1408. In considering the subject, have you first of all directed your attention to the question of whether the Bills promoted by the trades unions would prejudicially affect you in your business and in what manner?—Yes, I have. I have carefully considered the question, and consulted my principals upon the subject, my principals being the coalowners of Durham and Northumberland, and the views which we desire to place before the Commission are as follows:—

If the Bills which have been promoted in the interests of the workmen's organisations were passed into law, the interests of employers would be most prejudicially affected.

The measures contain three definite proposals, which may be stated shortly as follows:—

(1) To enable any person or persons to wait upon an individual, either at his work or home, or elsewhere to peacefully obtain or communicate information or to peacefully persuade such person.

(2) To relieve from an action for conspiracy any persons who combine to do an act which may not be the subject of an action when done by one person.

(3) To relieve trade union funds from liability for damages resulting from the wrongful acts of their agents.

With reference to the first-named object, part of the proposal is unnecessary and the rest is objectionable.

Under the Conspiracy and Protection of Property Act, 1875, it is expressly provided that attending merely to obtain or communicate information is not watching or besetting within the meaning of the section. As I understand, all that recent decisions have decided is that this liberty does not authorise persons to conduct themselves to others so as to commit a legal nuisance.

The other portion of the proposal would authorise the gathering together of crowds of persons outside a workman's house or employer's premises, or at any other place, for what is called "peaceable" persuasion. It can easily be imagined what effect such a gathering is intended to have, and probably would have, on the mind of an individual or small number of men who differ from the crowd. Only those of the strongest will would be able to resist the pressure, and such resistance would in too many cases lead to breaches of the peace. In fact, such gatherings for this so-called peaceful persuasion would simply serve the purpose of terrorising persons willing to work.

Every individual has a right to protection from a private nuisance, and there can be no reason why a trade union should have exceptional power to create a nuisance, either public or private.

The gathering of crowds in the way which it is proposed to authorise would undoubtedly become a very serious nuisance, and would in most cases be the first step to violence.

An illustration of this can be given in the case of a strike which occurred at Felling Colliery in the year 1902.

In January of that year the local lodge of the Durham Miners' Union passed a resolution imposing, without any authority, fines on eighteen men who had worked during

a strike which had occurred at the colliery a short time previously. The men declined to pay the fines and were subject to considerable annoyance and inconvenience.

As the lodge failed to peacefully persuade these eighteen men to comply with their wishes, the lodge resolved by a ballot vote to strike work in order to enforce payment of the fines.

Notices were accordingly given by the men to terminate their hiring, and at the termination of these notices they struck work. The eighteen men, who, of course, had not given notices, remained in their employment.

As soon as the strike began, crowds of persons, composed of the strikers and their relatives, assembled in the vicinity of the colliery when those working were going to or from their work. At first these crowds simply watched the men quietly, but matters quickly developed, and the watchers soon broke into loud shouts and taunts, and finally not only did great disturbances take place, but injury was caused to the workmen's houses. The result was that legal proceedings had to be taken against the ringleaders and some others in order to put a stop to such conduct.

If the proposal in the Bills were carried into law the effect would be to encourage such gatherings, ostensibly for purposes of peaceful persuasion, but which in almost all cases would develop into riots if the persons who were subject to the attentions of the crowd declined to be persuaded.

The effect would be an interference with individual liberty, a public nuisance, and in many cases damage to persons and property would result.

As regards the second proposal of the Bills, this at first sight appears plausible, but it must be remembered that acts done or words spoken by an individual may be quite harmless or can be ignored, while the same thing done by a combination of persons would have, and would no doubt be intended to have, a very different effect. The inducement offered by one person to another to do any act desired may altogether fail of effect. When a number of persons agree to join together for the purpose of bringing pressure to bear on an individual, the effect on the individual's mind is, and is no doubt intended to be, very different from the persuasion exercised by an individual.

Referring to the third proposal, this appears to be utterly unreasonable. No necessity has been shown for any change in the law which renders trade unions legally responsible, like other persons, for the consequences of their own wrongful acts, or those committed by their agents within the scope of their authority, express or implied. To relieve the trade unions of this responsibility would place them in a position to exercise the enormous power which their position and monetary resources give them, without any fear of their funds being called upon to make good the loss caused by their wrongful acts. This is a privilege which is not possessed by any person or class, and there is no reason why trade unions should be so exceptionally privileged. While many trade union leaders would exercise carefully any of their powers, still it would be a most dangerous step to place any person in a position of such enormous power without a corresponding responsibility for the consequences of his actions. It must also be remembered that the agents of the trade unions are able to exercise authority only by virtue of their position as such agents, and it is therefore only right that their associations should be responsible for their wrongful acts while exercising the authority derived from the associations.

It would be grossly unfair that the only remedy available to persons injured by such wrongful acts should be an action against the individuals themselves, whose means, as a rule, are inadequate to meet the consequences of their acts.

In Northumberland and Durham, the Owners have not actually taken legal proceedings against the Workmen's Associations on any question which is affected by the recent judicial decisions, but in one case they had occasion to consider whether it would not be necessary to take such action. It has not been customary for what are known as the August and December (or Boxing Day) Bank Holidays to be recognised as holidays at the mines in Durham and Northumberland. Some few years since, however, the Council of the Durham Miners' Association directed their members to take these days as holidays, and accordingly the men employed at most of the collieries, without giving notice to terminate their hiring, laid the pits idle on the August Bank Holiday in the year 1901. The Owners protested against this action, and urged the Miners' Association

so to arrange that it should not be repeated, but that if the men desired the change they should seek it in the usual way by negotiation with the Owners' Association, or by other recognised methods.

The Owners were advised that they had a claim against the Miners' Association for compensation for the heavy loss caused by the illegal action taken by their instructions, but they resolved, if possible, to settle the matter in a friendly way, and did not take any legal action. The dispute was ultimately brought before the Conciliation Board and determined by its umpire, Lord Davey, who gave a decision as to the future course of action regarding the holidays in question.

If the clause in the Bills dealing with the liability of Trade Unions become law, Trade Unions, through their agents, would be authorised to induce the workmen wrongfully to break their contracts and so inflict serious loss on their employers, without incurring any financial responsibility for their wrongful acts.

1409. Are you also prepared to give us illustrations of any Trade Union practices, against which employers are not sufficiently protected by the existing law, or would not be if the proposed legislation were adopted?—Coal Owners have frequently suffered, or been threatened with serious loss, because of quarrels among the workmen themselves, with the merits of which the Employers are in no way concerned.

For instance, at collieries in the county of Durham where some of the workmen are not members of the Trade Union and the local lodge of the Miners' Association fails to induce them by legitimate means to become members, then steps are taken to stop the working of the pits in order to make the men join, or to coerce the employers to compel them to do so.

Formerly the method adopted by the workmen in these cases was to refuse to descend or ascend the mine with non-unionists, this refusal resulting in stoppage of work unless the owners consented to send the non-unionists down in a cage by themselves. This action of the men was shown to be illegal, and the Union then adopted a different course, namely, to allow the men at any colliery to give notices terminating their hiring and to cease work to compel men to join the Union. An instance of this occurred at Ouston Colliery in August, 1897, when a strike occurred, lasting twenty-two days, owing to certain men not being members of the Union. This strike was supported by the Federation Board representing the Miners', Enginemen's, Mechanics' and Cokemen's Association, who informed the Owners that they were determined to support any colliery where the majority of the men determined to cease work owing to the employment of non-union men.

At an adjoining colliery, at the same time, the men went out on strike, the stoppage in this case lasting for thirteen days.

In addition to using such means to compel men to become members of their Unions, the workmen also adopt the same methods in order to secure payments from those who are already members, but who have got into arrears with the payment of their subscriptions. This is practically an endeavour to force the Employers to become the debt collectors to the men's Unions.

The Employers never object to any workman being a member of the Trade Unions, and in fact they recognise the Unions and treat with them in the freest and fullest possible manner as business organisations, but they decidedly object to being compelled to place any restraint on the liberty of their workpeople to determine for themselves, whether they will, or will not, become or remain members of the Associations.

It is somewhat doubtful whether the Employers have any legal protection at present against such action, but it is urged that such protection should be accorded, and in the event of the Bills under consideration becoming law, there would clearly be no opportunity afforded to the employers of obtaining redress.

1410. (*Sir William Lewis.*) That is to say where they comply with the rules of their own workmen's associations, you have much less difficulty than where the men are outside of the Association?—Not only that, but where men who are in the Association decline to be guided by its rules, or by the advice of its agents.

1411. But you have had associations both for employers and employed in the north in connection with your collieries for a very much longer period than almost any

Mr. R. Guthrie.

27 July 1904.

Mr. D.
Guthrie.

27 July 1904.

other district?—For thirty-two years; the relations between the Associations began in 1872.

1412. (*Chairman.*) Besides addressing yourself to the two specific questions with which you have already dealt, you were asked, I think, to make any other suggestions which you would like to put before the Commission?—Yes, and I submit the following particulars regarding our relations with the Trade Unions, and also suggestions and illustrations as asked by the Commission.

The Associations for which I act are the Durham Coal Owners' Association, the Northumberland Coal Owners' Association, the Durham Colliery Owners' Mutual Protection Association, the Northumberland Coal Owners' Mutual Protection Association, and the North of England United Coal Trade Association.

The two first-named Associations are those which deal with all matters connected with wages and hours of work, and general conditions relating to labour in or about the mines, and the Associations negotiate on these matters with the Workmen's Associations.

The Mutual Protection Associations are for the purpose of insuring the members against liability for injuries to their workpeople, and protecting the interests of the members on all matters relating to such liability. The Associations negotiate with the representatives of the Workmen's Associations respecting the claims of any of their members against members of the Association, and in Durham have formed Committees consisting of representatives of the Owners' and Workmen's Associations, having power to hear and determine claims under the Workmen's Compensation Acts.

The North of England United Coal Trade Association consists of coal owners of both the counties of Northumberland and Durham, and its object is to promote and protect the interests of the members in all general questions, other than those relating to the dealings with the workmen on matters of wages and conditions of labour. The Association is mainly concerned with Parliamentary and legal matters. It does not generally negotiate with the workmen on such matters, even on occasions where it is agreed that the interests of both require similar action. In such cases the owners and workmen act quite independently of each other, although the object desired by both may be identical. In a few cases, such as the establishment of Special Rules under the Mines Act, the members of the Association have conferred with the Workmen's Associations, and also with H.M. Inspectors of Mines, and in this instance the rules were established by agreement of all three parties.

The Durham Coal Owners' Association and the Northumberland Coal Owners' Association have each, in conjunction with the workmen of the respective counties, made elaborate arrangements for the settlement of local and general disputes. These include the appointment of Joint Committees, to determine local questions or those affecting only one colliery, and of Conciliation Boards to deal with those questions in which a whole county or the whole of any particular class of workmen in a county is concerned. In Durham the Conciliation Board is empowered to deal with all general county questions, but in Northumberland the operations of the Conciliation Board are confined to general wages questions.

The Associations find that these institutions work well on the whole, and bring about amicable settlements in many cases which might otherwise have led to serious disputes and stoppages of work.

The representatives of the Owners' and Workmen's Associations have, by conference between themselves and without the intervention of the Conciliation Boards and Joint Committees, settled many difficult matters, and on others respecting which they have not been able to arrive at a settlement they have referred the decision to those bodies.

The Associations have not in recent years had any serious dispute leading to a general stoppage of work and have had very little occasion to consider whether it was desirable for them to seek the protection of the law against the Workmen's Associations. They are, however, subjected to considerable trouble and loss through local strikes affecting single collieries. In most of these cases the workmen at the colliery concerned act in opposition to the rules, either written or unwritten, which regulate the action of the Owners' and Workmen's Associations, and in such cases they act without, or in opposition to, the advice of the agents of their own Association.

The majority of these cases arise either from disputes among the workmen themselves, or because of their refusal to bring their grievances before the Owners' and Workmen's Associations in accordance with the arrangements made by them for determining disputed questions and preventing strikes.

A striking instance of this is afforded by the dispute at Felling Colliery, where work was almost completely stopped for thirty-eight days entirely owing to a dispute amongst the men themselves and in which the strikers were acting in opposition to the advice of the Executive of their Association.

At Washington Colliery, in the year 1897, the workmen stopped work without notice in consequence of a dispute as to the method of working a particular part of the mine. Immediately on the strike commencing a meeting was held between the representatives of the Owners' and Workmen's Associations, when an offer was put before the men, which their Executive advised them to accept. This they declined to do, and continued on strike for ninety-seven days. In the meantime the workmen of the colliery appealed to the Council of the Miners' Association for support, which had been refused them by the Committee. The Council, by a majority, determined to support the men, but the trustees declined to grant payment of benefits because the men had acted in opposition to the rules of their Association, and consequently under these same rules payments of strike benefit could not be made to them. The men of the colliery appealed to the Courts to compel the trustees to comply with the resolution of the Council, but the action of the trustees was upheld and payment refused.

At Sherburn Colliery, in 1898-99, a strike occurred lasting for 177 days. In this case two men were discharged for sending up dirty coal contrary to regulations. The miners demanded the re-employment of these men, and on this being refused gave notices, and on their termination ceased work, with the support of the union. The workmen proposed as a settlement that the question be referred to arbitration, but were informed that the Owners could not agree to submit to arbitration their right to discharge workmen—this must continue unquestioned. Ultimately the dispute was settled by referring to arbitration the question of the method of examining the tubs for improper filling, the discharge of the men in question not being dealt with by the arbitration.

At Trimdon Colliery a question in dispute between the workmen and management had been submitted to the Joint Committee for consideration, and was referred by that body to arbitration. The workmen of the colliery declined to appoint an arbitrator, and after due notice the joint committee, in accordance with the rules, directed the Arbitrator appointed by the owners to proceed with the arbitration and make his award. This was done but the men declined to carry out the award. The matter was again brought before the joint committee, who decided that the men must abide by the award, but they still persisted in their refusal and gave notices to terminate their hirings. On the termination of these they came out on strike, in March, 1901, and remained idle for eighty-three days. On resuming work the men at first were still indisposed to comply with the conditions of the award, but after it was made clear to them both by the owners and their own agents that they must do so, and that it was on that understanding that work was resumed, they finally agreed to act on the award. The owners intimated their willingness to discuss any question which might afterwards arise in connection with the working of the award. In this case the men were acting in direct opposition to the advice of the executive of their association.

At Byers Green Colliery, in 1899, a strike occurred lasting for seven and a half days, owing to a coal hewer having agreed with the management that in consideration of extra payment he would undertake certain work which it was not usual at the colliery for hewers to perform. The workmen demanded that the bargain be stopped and the man discharged from the colliery. The owners declined to discharge the man, but expressed their willingness not to continue in operation the special arrangement made with him. This the men declined to accept, although their action was condemned by the agents of their association. The strike was only ended by the man in question leaving the colliery to avoid further difficulty.

It is suggested that experience would seem to show that the interests of all parties would be better served if the principle of responsibility of associations were further extended instead of diminished, as suggested by the promoters of the Trade Union Bills, and that the responsibility should apply to their contractual relations. Negotiations between associations are more satisfactory than dealings between the employers and individual workmen, but to render such arrangements of the greatest possible benefit it is desirable that each side should have the power and desire to ensure the fulfilment by all its members of the obligations it may enter into on their behalf, and failure to carry such arrangements into effect should involve a financial liability for any loss caused by what would be in effect a breach of contract. If any breach of an agreement entered into by an association is caused by that association, or any of its members, then the association should be liable for the loss caused.

The attention of the Commissioners is directed to the observations appended to the Report of the Royal Commission on Labour, signed by the Duke of Devonshire (Chairman), Mr. (now Sir) David Dale, Sir M. Hicks-Beach, Mr. L. H. Courtney, Sir F. Pollock, Mr. T. H. Ismay, Mr. Geo. Livesey, and Mr. Wm. Tunstall (page 115 of the 5th and final Report of the Royal Commission on Labour), which, it is suggested, points out a practical way of carrying out this plan.

Another cause of complaint in addition to the local stoppages of workmen at the individual collieries is the irregular working of the men at the collieries. That is a complaint which we have brought before the Miners' Association and we have discussed it through the committees of the Owners and Workmen's Associations, and we were informed by the miners' agents that they did not countenance such action, either the local stoppages or the irregular working of the men, and they agreed to send out a circular pointing out to the workmen the impropriety of their action, and desiring them to adopt a different course.

1413. (*Sir William Lewis.*) Has that been of any service?—Not much, especially as regards the irregularity of working. I have, in answer to previous questions, given particulars of the most important stoppages which we have had. Those to which I now refer, and which are constantly occurring, are generally of very short duration, but they are very considerable in number. During the last eight years we have had 399 stoppages, resulting in a loss of 1,273 days, or an average of fifty stops per annum, and 159 days per annum. The average duration of all these stops, including both the long and short ones, is three days.

1414. Although they appear to be a number of small stoppages they were still very serious to the respective owners?—In the aggregate very serious indeed, and the loss to each individual owner is very great.

1415. Have you any suggestion to make with reference to the stoppages which are now so common, not only in your district but in other districts, due to men not being in the union, and to the unwillingness of the unionists to work with them, or to pass up and down the pits with them?—We have had experience of the two methods the men have adopted with regard to forcing men into the union, or, what is worse still, forcing them to pay arrears of subscriptions. First, they attempted, as I have stated before, to stop the men going down in the same cage with non-unionists; the owners decidedly objected to that, and refused to provide a separate cage, and the result was that proceedings were taken against each individual workman for declining to go down to work. The result was, it was shown that the men's action was illegal and they ceased to adopt that course.

1416. (*Sir Godfrey Lushington.*) Would you explain the proceedings that were taken?—We sued for damages caused by the men refusing to go to work.

1417. In accordance with their contracts?—Yes, without giving the necessary fourteen days' notice. We proceeded for damages for breach of contract.

1418. But there would be nothing illegal when you asked to take them into your service, for them to stipulate that they would travel in a separate cage from the non-unionists?—I should think not, but we should decline to accept their hiring under such conditions.

1419. It was really their refusing to carry out their contracts that was illegal?—If they have injured the employer the refusal to go into the same cage with the non-unionist is illegal; it is a breach of contract. Each individual man was asked to go into the cage and refused and by that he broke his contract.

1420. (*Sir William Lewis.*) Would not the effect of having the arrangements different for unionists and non-unionists, so enormously increase the cost of carrying on the collieries, that it would be practically prohibitive?—Undoubtedly; such a proposal could not be entertained by the coalowners.

1421. It would be quite impracticable?—Quite.

1422. They might carry it further and refuse to work in a roadway, or in headings with them?—Yes, the same as they do on the surface sometimes; they refuse to sit in the same chapel with them.

1423. You have not succeeded in any arrangements you have made, in preventing them or putting an end to it?—No, they adopt a different course now; they hand in the fourteen days' legal notice to terminate their hiring and during that fourteen days they exercise a great deal of pressure on the non-unionists or upon those in arrears with their subscriptions, and very frequently they succeed before the expiration of their notice, but if they are not successful in the meantime a stoppage occurs at the cost of the employer solely in consequence of a dispute between the workmen themselves with which we have nothing to do. How to suggest a remedy I do not know.

1424. Nor have you any power?—I should not ask Parliament to force men to work with those they are not willing to work with; at the same time each man should be left at liberty to say whether he will or will not be a member of the union. We consider that the unions are a great advantage in facilitating the arrangements between employers and employed.

1425. But your contract is a personal contract?—It is.

1426. You do not enter into contracts with the union, and it is not the union that is guilty of any breach when any of its members decline to work with non-unionists?—This particular action is taken by the advice and with the support of the union, but our method of doing business is what is referred to in that Report of the Royal Commission which I have mentioned, as collective bargaining, and collective bargaining is universal in the coal trade, that is, the bargains are made between the two associations, and all the coalowners and all the workmen are expected to carry them out, but on this particular non-union question we have never entered into a bargain with the miners' association.

1427. That is so in South Wales; the employers have abstained from entering into any bargain with the union as a union, but with persons representing the whole of the workmen in the collieries in South Wales?—Yes, I understand that is so.

1428. That is different to what you have in the north?—You would require each man to sign a contract, I understand, setting out the conditions which have been arranged.

1429. Yes, but neither the union nor any single member of it has ever suggested, when he has been engaged, that he should have the right of objecting to work or to travel up and down the pit with a non-unionist; it has not come to that yet?—We have had not only that, but, as I say, what is more particularly objectionable, the endeavouring to force the owners to compel the men to pay their debts to the union; it is practically making us the debt collectors.

1430. When you have been discussing these matters with the representatives of the union, have they suggested any means of putting an end to that?—They have suggested means which we were unable to accept, and one was that the non-union men should not be granted the same rate of wage as those who are in the union, that is that the percentage additions to the standard wage should only apply to union men. That, of course, we could not consider for a moment.

1431. Have you any practical suggestion to submit to the Commission to deal with that?—I have not, it is such a difficult question; it is impossible, as I have said, to ask Parliament to compel men to work under particular conditions, and short of that I fail to see any remedy, except

Mr. R. Guthrie.
27 July 1904.

Mr. R.
Guthrie.

27 July 1904.

that the men themselves should adopt a better frame of mind.

1432. (*Chairman.*) Your attitude seems to me to be that you do not object to the existence of unions at all, provided only that their action is not to terrorise the men who do not wish to join them?—Yes, we engage in business transactions most fully with the men's organisations and are quite satisfied to do so, preferring that to the method of individual bargaining, but it is essential that if such bargaining is to be of service there should be some means to ensure the fulfilment of the engagements entered into. I should like to add that our relations with the Trade Unions are much more satisfactory than they appear to be in some other districts and in some other industries, and, consequently, we have not had occasion to appeal to the law, nor to give so much consideration to recent legal cases as some other employers have had to do.

1433. (*Sir William Lewis.*) Can you say from actual experience that there are less disputes now since you have adopted the bargaining in general with the Association than when the old custom of individual bargaining prevailed?—That I could not say, because we have no records prior to the time when we negotiated with the workmen's unions. We have no records of strikes prior to 1872. In my own personal experience the stoppages, although they may be as numerous, I do not think are so long in duration within the last five or ten years as they had been previously. In times of good trade, when men are fully employed and earning good wages, we have always far more disputes and stoppages than we have in times of bad trade when the men are not employed every day and the wages are not so high. That is the universal experience. When the selling price of coal goes up, so does the number of stoppages.

1434. (*Sir Godfrey Lushington.*) When wages are high and work is brisk they think they can take the opportunity to press for a further rise, as the employer is anxious not to lose valuable contracts; that is the secret of it, and it is not that they are spoiled by good wages, is it?—I think it is that they have more money and more desire for leisure, and they have the opportunity of working every day and, therefore, a holiday is welcome. In times of bad trade, when the collieries are not working every day, they have so many holidays which they do not desire that they are not so anxious to take others.

1435. (*Sir William Lewis.*) They not only work irregularly during that time, but the wages they obtain when they are working are much less?—Yes, the amount they put into their pockets per week is very considerably less and the loss of a day's work is a much more serious item.

1436. (*Sir Godfrey Lushington.*) Taking the first matter dealt with by the Bills before Parliament, the proposal to enable any person or persons to wait upon an individual either at his work or home or elsewhere peacefully to obtain or communicate information or peacefully persuade such person, I suppose you are familiar with the "Conspiracy and Protection of Property Act, 1875"?—I know its provisions; of course I am not a lawyer and, as I mentioned in my letter to the Secretary of the Commission, I would prefer not to enter into very full details of strictly legal questions, and if the Commission desire evidence upon that point our solicitor, Mr. Cooper, would be prepared to attend. My evidence is more directed to the practical relations between the employers and employed. At the same time, of course, in the performance of my duties I have to become acquainted with certain legal matters.

1437. Will you accept this from me that the Conspiracy Act provides that every person who with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing watches or besets the house or other place where such other person resides or works or carries on business or happens to be or the approach to such house or place, shall on conviction be liable to punishment. That is the general provision?—Yes.

1438. And then you are aware that that is qualified by a subsequent provision which states that "attending at or near the house or place where a person resides or works or carries on business, or happens to be, or the approach to such house or place in order merely to obtain or communicate information shall not be deemed a watching or

besetting within the meaning of this Section"?—Yes, that is what I had in my mind.

1439. Therefore, there is now an exception in favour of persons, who, in order merely to obtain or communicate information, watch or beset the house of the workman, although it may be with an ulterior view to compel some person to do that which he does not want to do?—I do not see how merely obtaining or communicating information could be a compulsion unless he compels the person to give him information. I think the words are "peacefully to obtain or communicate information."

1440. No, there is no "peacefully"?—Then I am wrong; our contention is that there is no need for any change in the law to render a peaceful strike possible; the law is quite sufficient to protect any persons who desire to enter into a strike in a legal and peaceful manner without exercising compulsion on the will of any other person.

1441. At present the law allows persons to attend at or near the house in order merely to obtain or communicate information—I must add, and you can agree or not as you like—"with a view to compel any other person to abstain" and so on. Does the Act of Parliament provide any limit to the number of persons who are to attempt to obtain or communicate information?—That I could not say.

1442. It does not, does it?—Not that I know of, but it is a legal question I am not capable of answering.

1443. Is there any limit to the number of persons who may be engaged in this action? Might a hundred persons attend the house of one person in order to obtain or communicate information?—That I could not say.

1444. What would be the information which the workmen are desirous to obtain and which the law agrees shall be a qualification which shall deprive the act of the quality, which it would otherwise have, of criminality?—I never could understand what information could be desired by a very large number who waited upon one person.

1445. But in any case what would be the information?—I presume it would be information as to the action of those who are working with a view to giving the unionists material to exercise pressure upon them.

1446. Would it be such questions as this: "How many men has the employer in the strike managed to secure?"—And what are they working for, what are the conditions of their employment and so on.

1447. How many hours a day they are working and so on?—Yes.

1448. In fact discovering the weakness, so to speak, of the enemy's forces. Would not that be so?—Yes, I should imagine that would be one of the main points upon which they would desire information and which could be better obtained by one or two persons than by a very large crowd.

1449. Is there any peculiar character of virtue or even of innocence in workmen who are on strike against an employer seeking to find out how the employer is still managing to carry on his business? Is there anything in that which furnishes an excuse for that which would otherwise be criminal?—I cannot see it.

1450. But the law allows it?—The law allows it by small numbers of persons I understand. I am unable to say whether there is any limit, but my own impression is that there must be some reasonable number.

1451. (*Sir William Lewis.*) I think you observed a few minutes ago that assuming the information is requisite, there is no necessity for more than one person to obtain it?—None at all; it is much better obtained by one person than by a large crowd.

1452. Naturally by one person there might be no pressure or intimidation, whereas by multiplying the number, it would be a subject of intimidation and coercion?—It would seem to me to be an absurdity that a very large number should attend for the purpose of obtaining information.

1453. (*Chairman.*) I rather think what you have been expressing in a commonsense way, if analysed on the question asked you about the limit of numbers so far as the Conspiracy Act is concerned, really turns upon the view of the facts that would be taken of the word "merely"?—Yes, I think so.

1454. The expression in the Act is "merely to obtain"; if I am not wrong I think the view you have been expressing, as I say, in a commonsense way, not as a lawyer, really when analysed turns upon that. Your view, I think—and correct me if I am wrong—is that, whereas you might obtain information by one or even two as soon as you add a crowd that very fact would show that they were there for something else than obtaining information, and therefore it would not be merely to obtain information?—Quite so; for the purpose of merely obtaining information the act would be far better performed by one or two persons than by a number.

1455. (*Sir Godfrey Lushington.*) Then take communicating information, whether they are few persons or many who are allowed to attend the house only with a view to communicating information, what is the information which they wish to communicate which the law seems specially to sanction?—I presume it would be that the resolution of the union is that they are not to work; that would be the only object.

1456. To inform those who are working that they ought not to work?—That they are doing wrong, and if that information is conveyed by a hundred people it would probably be intended to have a very serious effect on the mind of the individual working.

1457. Supposing only ten people attend at a person's house and wait for him when he comes out and ask him: "Are you going to join the strike or are you going to be a blackleg?" if he says "Yes," what would be the natural and normal consequence?—It would depend on the physical powers and the mental determination first of all of the man, and, secondly, of the ten persons.

1458. I believe there is a character known to the law courts as "a person of ordinary nerve"; would a person of ordinary nerve find himself in an unpleasant position under those circumstances?—Well, it depends a good deal on the nerve of the ten and the physical appearance of the ten, does it not?

1459. (*Sir William Lewis.*) And their manner?—The manner would have a great deal to do with it.

1460. (*Sir Godfrey Lushington.*) Taking average workmen as they are, if ten or twenty average workmen waited for a man at his house who had not joined the strike, and the man was an average workman, would that be likely to affect his nerves?—I should think it would.

1461. Do you consider (this is the net result of the questions I am putting to you now) that there is much reason in the qualification or exception which the law allows in favour of persons attending a house with a view merely to obtain or communicate information?—I think there is a difference between attending to communicate information and what is called peacefully persuading.

1462. You are aware that the law courts have determined that although the Act allows attendance at a house merely to obtain or communicate information, that does not justify any attempt peacefully to persuade?—I am aware of that.

1463. Do you think there is any difference between seeking merely to obtain or communicate information and seeking peacefully to persuade?—I think there is; if the obtaining of information is a peaceful act, I think there is a good deal of difference.

1464. I ask you to distinguish between merely attending to obtain or communicate information, and merely peacefully persuading; is there any difference?—I think there is a difference between asking a man how many men are working with him and telling him that it is highly desirable he should not work; there is a subtle difference which would be perceived by the man himself.

1465. (*Sir William Lewis.*) Especially if it is backed up by a number of people behind you?—Yes.

1466. (*Sir Godfrey Lushington.*) You can conceive a difference between the two?—I can.

1467. In ordinary practical life is there any difference between ten men attending to receive information and ten men peacefully persuading?—I think there is a difference which would be recognised by the man himself when he was spoken to.

1468. (*Sir William Lewis.*) And not only by the man himself but there would be the effect on his family?—Yes.

1469. (*Sir Godfrey Lushington.*) Which is the most operative on the man's mind and nerves, persons coming to obtain or communicate information, or persons coming merely peacefully to persuade?—Persons coming to ask how many men are working with him or what he is working for would certainly not have such a serious effect on his mind as some persons, as Sir William says, backed up by others behind, urging upon him the undesirability of his continuing to work.

1470. Do you consider that any question is ever asked for the purpose of obtaining information except with a view to persuade or terrify?—Oh yes, I can quite imagine that there are cases of that kind where the men get information and advertise it with a view to preventing people being brought from other districts to join the workers.

1471. You can conceive that there might be exceptional cases of that kind?—Yes.

1472. But, as a rule, do you not consider that any attending at a workman's house to give or receive information is always with a view to persuade and very often to persuade not peacefully?—Yes, I think it is; if they go in numbers there is no doubt in my mind that their object is compulsion and not peaceful persuasion.

1473. Do I understand you wish to retain the present exception in favour of attending merely to obtain and communicate information?—We do not propose any change in the law in that direction.

1474. Do you oppose any extension of the law so that merely peacefully persuading should also be an exception?—Yes, for the reasons I have already stated that the gathering together of these crowds peacefully to persuade is simply the first act of a public nuisance and great violence as is shown by the illustration I have mentioned in the case of the Felling Colliery where the men gathered together to watch the workers; at first there was silence and there was no great disturbance, but of course the men who were working knew what it meant; and gradually as they were not peacefully persuaded by the presence of the men who had previously been their fellow workers things developed, shouts became general, what we call "tin-canning" began, and finally open violence took place.

1475. Do you consider that the liability to abuses which you have just described as applying to persons seeking merely to peacefully persuade does not equally apply to persons who attend a house merely to obtain and communicate information?—If they are in very large numbers I do not think there would be very much difference; the object would be the same I have no doubt.

1476. (*Sir William Lewis.*) I gather from you that you consider the law bad enough as it is, whereas by the additional provision which is proposed it would be made very much worse?—It would be intolerable if they were allowed for any purpose to attend.

1477. (*Chairman.*) It is not I think that you think the law bad, but you think in fact it is almost absolutely impossible that any body of men should keep itself to the narrow purpose which alone the law allows. That is really your view, is it not?—Yes.

1478. (*Sir William Lewis.*) Your belief is that by the amendment proposed the law would be made very much worse?—That is so; that is my view.

1479. (*Sir Godfrey Lushington.*) With regard to the second proposition, namely, the proposition to exempt from an action for conspiracy any persons who combine to do an act which might not be the subject of an action when done by one person, you point out, do you not, that it is quite possible for an action by an individual to be innocuous, or at all events not to require any interference from the law, whereas the same act if done in combination by a number of persons, may be dangerous and mischievous?—Yes.

1480. If you desire that the law should interfere in the second case, would you give powers to the judge and jury to say what is the class of action which when done in combination shall constitute a conspiracy, or would you have the law specify the acts which, when done in combination, shall be deemed to be conspiracy?—We do not see any reason for alteration in the law as it at present stands.

Mr. R.
Guthrie.
27 July 1904.

Mr. R.
Guthrie.
27 July 1904.

1481. I want an answer to my question ?—I am afraid I do not quite follow it ; it may perhaps be because the matter is strictly legal.

1482. I desire to learn from you which of the two alternatives you hold to. You have already expressed the view that there are actions which, when done by individuals do not call for interference by law, but that the same actions when done by persons in combination should amount to a conspiracy ?—Yes.

1483. Now I ask you what do you propose to be the legal remedy or the way in which you think the law should operate ? Shall the law define nothing but leave it entirely to the discretion of the judge and jury to say whether the act done in combination amounts to a conspiracy (that is one alternative), or shall the law define what acts done in combination shall amount to a conspiracy ? Which of these two theories do you adopt ?—Do you mean that the judge would determine whether the conspiracy was for the purpose of furthering a wrongful act or not ?

1484. I put those two alternatives generally to you and you can answer in what way you think fit. Do you wish the law to define the acts which when done in combination shall be punishable, or do you wish to leave greater or less discretion to the judge and jury trying the case ?—I should desire to leave a large amount of discretion to the courts as to whether the action was wrongful or otherwise.

1485. Is not that an anomalous arrangement when we compare it with the course of our law in general ?—I am not sufficiently acquainted with the law to say whether it is different from the general procedure in other cases or not.

1486. You know when a man is brought up in one of our Criminal Courts there is some offence laid to his charge, and he cannot be punished simply because the judge and jury think he has behaved badly ?—No. I was going to instance the law of libel where there is a very considerable discretion left to the judge to decide whether the thing is a libel or not taking into account the evidence as to malice and such things.

1487. May I take it that that is what you propose should be the law ?—I should not like to define exactly what I think should be the law, but I would like to confine my answer to what I said before—that I would leave a large amount of discretion to the court to determine whether the act is a wrongful one or not.

1488. May we take one or two instances : Would you think it should be lawful for the judge and jury to decide whether merely striking should be an offence—merely refusing to work ?—When they have given notice to terminate their employment ?

1489. Yes ?—No, I would not.

1490. Would you hold that striking, whatever might be the special object of the strike—supposing, for instance, it was a strike against a non-unionist—should be allowable ?—I should not consider it an offence on the part of the individuals who are striking, but to enter into a conspiracy to induce them to strike would be another thing.

1491. I was coming to that. You hold that actual striking should not be interfered with by the law whatever was the object. Supposing it was not only striking against the non-unionist, but striking to punish him for having been a non-unionist five years ago ?—I should not like to ask Parliament to compel any man to work under conditions which he does not choose.

1492. You would not like to ask Parliament in any case to punish him for refusing to work ?—No, except for financial loss caused by his action if it is illegal, if he stops work without notice.

1493. Throughout the discussion we are assuming that the act is otherwise legal. If you would not interfere with striking would you interfere with inducing to strike ?—Yes, I should object decidedly to a person having power to enter into a conspiracy with others to induce a strike to the damage of some third party.

1494. In every case ?—Yes.

1495. Then the agents of trade unions could never act together without exposing themselves to an action for conspiracy ?—They are specially exempted as I understand

the Trade Union Act. I would certainly not punish trade unions.

1496. I thought you said you would punish persons for inducing a strike to the damage of a third party ?—You mean if the trade union is acting by inducing its members to strike against a non-unionist ?

1497. Yes, that would be one case ?—Yes, that would be objectionable.

1498. You would say that that should be punishable ?—Yes, to do something to the detriment of the employer in matters in which they have no quarrel with him, but which is solely for the purpose of securing payment of debts or anything of that kind ; we object to that.

1499. That may be very unpleasant for the employer but one does not quite see where the wrongfulness comes in ; every strike is disagreeable for the employers, is it not ?—Certainly.

1500. And in theory every strike if carried out to the extreme would mean the ruin of the employer ?—Yes.

1501. Then how do you make the distinction between inducing the men to strike in one case and inducing them to strike in another ?—If they are striking against an employer for some alteration in the conditions of their hiring it is a different thing from striking on some matter with which the employer has nothing to do.

1502. You mean you would not punish for inducing persons to strike in an unreasonable manner ?—Yes.

1503. Supposing the trade union agent induces persons to strike for a rise in wages from 30s. to 35s., and the judge and jury are of opinion that the claim for extra wages is very unreasonable, would you punish him for that strike ?—No.

1504. Why not, if you punished him in the other case ?—Because that is something in which the interests of both the employer and the employed are concerned. The other is a quarrel among the men themselves with which the employer has nothing to do.

1505. In every case does not a strike against a non-unionist necessarily affect the work of the employer ?—Yes.

1506. Therefore you would punish in every case inducement to strike against a non-unionist ? I want to know how you work out your theory ?—If it is a matter in which the employer is not concerned he should not be made to suffer for the quarrel among the men themselves ; that is my view.

1507. In the abstract that sounds very well, but do you not think that unionists see their interest in non-unionists not being employed ?—Yes, I have no objection to their looking after their own interests, if they do not do it at the cost of their employers.

1508. But they cannot act towards non-unionists without affecting the employer ?—Then they should be prevented from making the employer suffer because of their own quarrel with which he has nothing to do.

1509. Does your argument apply to striking or to inducing to strike under those circumstances ?—To inducing to strike.

1510. Why do you limit it to that ? The actual striking of course occasions the loss to the employer, and he has nothing to do with the quarrel ?—But it is brought about by the others who are not the employer's workmen : as I said before I should never ask Parliament to compel any man to work under conditions which he does not choose to undertake.

1511. (*Sir William Lewis.*) But would you ask Parliament to make a law to force men who are not in the union, to co-operate with the union ?—No, I should leave the men at liberty.

1512. It is apart entirely from the employer's interests that I am asking that question with regard to forcing men into the Union ?—No, I do not think it would be a reasonable proposal to force men into the Union ; however desirable it may be that they should be members of the Union they should be allowed to retain their liberty to be or not to be members of the Union. The same applies to masters' organisations ; certain employers (not many in our district) are not in the Union, but I should not ask Parliament to compel them to join, or I should not ask the men to stop work in order to compel them to join.

Mr. R.
Guthrie.

27 July 1904.

1513. (*Sir Godfrey Lushington.*) Do you understand what is meant by a secondary strike?—No.

1514. It is where there is a strike between A and his workmen and in order to bring pressure to bear upon A the strike is extended to B?—That is what we call a sympathetic strike.

1515. Would you make the actual striking in a secondary strike illegal or not?—I think that would come under the same category of endeavouring to compel men to work under conditions which they did not choose to accept.

1516. Would you in all cases make inducing to join a sympathetic strike a punishable criminal offence?—I think I should; there is no reason whatever assigned for the strike, and it is not a matter in which the particular master and the particular men are concerned.

1517. We are now considering the question whether the Act should be criminal or not criminal. You suggest it should be treated as criminal because it is against the master's interests in a matter in which he is not properly concerned?—Perhaps I might correct my previous answer; you did use the word criminal but I was not thinking of a criminal act at the time. I should perhaps qualify my answer; I should not desire that they should be criminally proceeded against but that they should be financially responsible.

1518. Take it in that way then. What you propose should be a tort is not to strike, but to induce persons to start or join in a sympathetic strike, and the reason why you propose it should be a tort is that it is injurious to the employer in a matter in which he is not concerned; therefore that which you consider to be tortious in the act is that it offends against the interest of the employer?—In a matter with which he is not concerned.

1519. Would you admit that workmen in the Union think it is to their interest that non-unionists should not be employed?—Yes.

1520. Therefore in deciding whether the matter is tortious or not you have regard to the interest of the employer, and apparently you do not pay any attention to the conceived interest of the workmen?—Why should the interests of one person be furthered at the expense of another who has nothing to do with the quarrel?

1521. (*Sir William Lewis.*) Besides there is a third party you have not brought in, the particular non-unionist, why should he be forced into the union apart entirely from the interests of the employer?—However much it may be to the interests of the Union men to get non-Union men in, there is no reason why they should sacrifice the interests of another party to benefit their own interests, the second party having nothing to do with it.

1522. (*Sir Godfrey Lushington.*) At all events you arrive at this result, that you would preclude the inducement of workmen to strike to protect their own interests, because that strike is injurious to the master?—On a matter with which he is not concerned; that is my whole point.

1523. As to the difference between striking and inducing to strike, do you know of any strike which has ever been conducted without any inducement to strike?—Oh, yes.

1524. If two persons agree to strike and ask a third person to join, there is inducing to strike as well as striking, is there not?—You mean among the workmen themselves at the particular place concerned?

1525. Yes?—What I object to is inducement from outsiders.

1526. Then you object to the trade union agent?—I do object to the trade union agent inducing the men to strike under the circumstances we have just been discussing on any matter with which the employer is not concerned. I object to the trade union agent, as I have put it in the earlier portion of my examination, making the employer his debt collector for instance, by ordering the men to strike in order to induce the employer to exercise pressure upon those who are in arrears with their subscriptions to pay such arrears.

1527. (*Sir William Lewis.*) That you give as an illustration?—That is an illustration.

1528. (*Sir Godfrey Lushington.*) I repeat again, do you know of any strike which is carried on without inducement to strike?—Inducement from outsiders?

1529. No, from anybody?—If you call a discussion among the men themselves "inducement to strike," no.

1530. Would you have the law to say, "We will only consider the actual people employed; they may induce each other but the trade union agent cannot." Is that what you wish to say?—I say the two things are entirely different; those in the colliery meet day by day to discuss the matter among themselves and decide to take a certain course of action, and I do not call that inducing.

1531. May I sum up what you have said by describing your proposition to be this: You propose not to make striking in any case either actionable or criminal?—Provided it is done legally and that proper notice is given to terminate the hiring.

1532. You do not propose in any case to make inducing to strike criminal?—I should not like to say I did not propose in any case but not generally.

1533. But you do propose to make inducing to strike actionable where the inducing operates to the detriment of the employer and arises out of a matter in which he is not personally concerned?—Quite so. I take it that that certainly does include the question of non-unionist, and my intention is that my answer should cover that.

1534. I now pass to the third of the propositions in the Bill, "to relieve trade union funds from liability for damages resulting from the wrongful acts of their agents." What is the reason do you know which is put forward for the exemption of trade unions for the acts of their agents?—The reason put forward by the trade unions themselves?

1535. By anybody?—I have heard discussions in Parliament and I have read discussions in the Press, and I have never been able to find out any reason why they should be placed in this exceptional position. I have never heard a practical reason given why they should demand it.

1536. Is there any other reason than this, that the belief was entertained for a long time that the procedure furnished by the law was not sufficient to enable the seizure of the trade union funds?—You mean that the trade unions imagined themselves secure, and found they were not?

1537. What I want to get from you is this, that the only reason that could be suggested why trade union funds should be exempt was that the procedure of the law was insufficient to enable the appropriation of the trade union funds and then I intended to put to you: Supposing that to be the case would it not be the solemn duty of the Legislature to remove any difficulty and improve the procedure?—I should say certainly if the procedure of the law was defective upon any particular question.

1538. In former days a man used to bolt from the kingdom to elude the process of the law; do you think it was a hardship or a wrong to that man that the law should authorise a writ *ne exeat regno*?—What kind of a writ is that, may I ask?

1539. (*Chairman.*) The question put in a non-lawyer fashion would be:—Why do you think there never were damages recovered against a trades union before the Taff Vale case, which was only the other day? I take it that you are perfectly certain that trade unions must have committed the same class of wrong long before the Taff Vale decision?—I presume they may have done so, but not on an extensive scale, not sufficient to justify the employer in taking action. I am not speaking from knowledge, but merely from conjecture.

1540. Sir Godfrey suggests that the reason nothing was ever recovered before the Taff Vale case was that there was a general view of the law that the law was deficient in the particular process which enabled you to get at a body of such a peculiar construction as a trade union?—I think it all comes round to the way I put it—that the trade unions imagined themselves secure, and now they find they are not they want the law altered.

1541. Sir Godfrey also wishes to put to you the point that supposing they had been secure under the law as it existed, would it not be quite right to alter the law so that they should not be secure?—Most decidedly.

1542. (*Sir Godfrey Lushington.*) Could the trade unions be heard to complain that they were brought within the law? Have they the slightest ground for complaint?—They do complain, but they have no possible ground of complaint that I can see; we do not see the slightest.

Mr. R.
Guthrie.
27 July 1904.

reason why they should be placed in a position of exceptional privilege by the grant of enormous power without a corresponding responsibility for the consequences of a wrongful use of that power.

1543. Are you in favour of the law being the same for all persons ?—Quite.

1544. Employers and workmen ?—Yes.

1545. Unionists and non-unionists ?—Yes ; we are quite ready to undertake our share of the obligations.

1546. You said just now that you had studied the Mogul case, amongst others ?—I should not like to say I have studied it ; I have read it.

1547. Do you think the law is fair—that it operates equally upon employers as upon employed ?—So far as my limited knowledge of the law goes, I am of that opinion, but not being a lawyer I have some diffidence in expressing an opinion. My main point is, that both employers and employed, either organisation or individuals, should be responsible for the consequences of wrongful acts committed by them or by their agents within their authority, whether that authority is express or implied. The agents of the associations only exercise authority through virtue of their position and the associations should not escape responsibility.

1548. (Sir William Lewis.) And neither should be exempt ?—No.

1549. (Sir Godfrey Lushington.) Do you think anything should turn upon the motive on which the inducing takes place ?—The illustration we have discussed most is that of the non-union man ; there, no doubt, the motive is to advance the interests of the association, but so far as the employers are concerned they do not enter into the motive ; they say, "This is a quarrel with which we have nothing to do."

1550. I am afraid you have not answered my question ; the question is the motive on the part of the inducers. Do you know the case of *Quinn v. Leatham* ?—Yes.

1551. Do you think that case was decided on the ground that mischief was done to the interests of an employer, who was really not concerned in the quarrel between the unionists and the non-unionists, or was the case decided on the ground that the action of the unionists which was injurious to the employer was a vindictive and cruel proceeding towards the non-unionists ?—I think, according to the judgment, it was given on the ground of interference with the employer's interests.

1552. Do you think as a matter of law that the motive of the inducers should have nothing to do with it ?—I think I would rather leave the question of law to be answered by our Solicitor, Mr. Cooper ; I answer from the practical point of view that the interests of the employer should not suffer because of some quarrel between the men themselves with which the employer is not concerned.

1553. (Sir William Lewis.) When you say "the men themselves," that includes of course the question of union or non-union ?—Yes.

1554. (Sir Godfrey Lushington.) Do you consider that the employer should have the right to dismiss any man he thinks right ?—Quite so.

1555. And any number of men ?—Yes.

1556. All his men *en bloc* ?—Yes, in the same way as the men have the liberty to leave his service at any time they think fit.

1557. That being so, do you think that if their representative, whether he is a trade union agent or not, goes to the employer and says, "Unless you do so and so all your men shall leave you, so that your business shall be stopped," that is intimidation on the part of the person giving that notice to the employer or not ?—Yes, I think it is. I think there is a very great difference between that and an

employer getting rid of a workman he no longer desires or whom he thinks not able for his work or for any other reason which might induce the employer to discharge his men.

1558. Is there any difference between these two cases ? In the one case the employer thinks it is not to his interest to employ men, and in the other case the men think it to their interest not to be employed ?—In the case of the men, themselves ?

1559. Are not the cases exactly the same ?—Yes, with the men themselves : take an individual, the employer thinks he no longer requires the services of the man and he gives him his notice, or on the other hand, the man thinks he no longer wishes to remain in the service of his employer and he gives his notice to leave. There is no difference between these cases, but there is a difference in the case of an outsider coming in and urging the employer to discharge one of his workmen if the employer does not wish to do so.

1560. That is not the question I put to you ; supposing the leader of the men who is one of themselves goes to the employer and on behalf of all the men says, "Unless you do so and so your works will be closed, we will all go," is that intimidation ?—He would be practically a message bearer ; he would be conveying a message from the workmen.

1561. Be it so ?—He would not be an inducer or threatener.

1562. I am not on the question of inducing but on the question of intimidation ; if he is a message bearer does he intimidate the master ?—I do not think so if he simply comes with a message from the workmen that they desire to give their fourteen days' notice.

1563. (Sir William Lewis.) But each of them could give the notice himself ; it is their personal contract ?—Yes, they do give their notices individually.

1564. But do you not think the fact of sending *en bloc* in that way does bear on the face of it intimidation ? They could each give in their notice as their contracts are individually made ?—We have in many cases received notices signed upon one large sheet of paper and handed in by the secretary of the lodge, but he is simply a messenger in that case.

1565. (Sir Godfrey Lushington.) I am not on the question now of inducing, but I am simply on the question of intimidation. Supposing a hundred men who have settled among themselves to strike going to the master and saying point blank to him, "Unless you accede to our terms we hundred strike." Is that intimidation ?—It is not intimidation on the part of the individual, because he is simply, as I say, acting as a messenger on behalf of his colleagues.

1566. If the judges have held that to be intimidation you would not wish that to remain the law ?—If it is as I put it that the man is simply sent by his colleagues to inform the employer of a decision which has been arrived at, which of course must be communicated to him merely as a matter of civility.

1567. But you are aware that the decision of the judges has not turned on the question whether the man was a messenger, or whether he was a trade union agent, or whether he was one of the men themselves ; it has turned upon the effect of his announcement on the mind of the employer ?—I am not acquainted with that.

1568. The employer is held to be intimidated by the fright at having his works closed unless he falls in with the demands made upon him ?—So far as we are concerned, if the secretary of the lodge comes by instructions from his men to say that they have taken a vote and decided to strike, we should not call it intimidation and we should not call the secretary an intimidator.

(Mr. Guthrie was subsequently asked to send in the Rules of the Northumberland and Durham Coal Owners' Association. He did so, and extracts therefrom are printed in the Appendices on pp. 78 and 79.)

SEVENTEENTH DAY.

Wednesday, 10th August, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Baronet.
Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. ROBERT BAIRD called and examined.

1569. (*Chairman.*) You are Secretary to the Lanarkshire Coalmasters' Association, and also to the Scotch Coal Trade Conciliation Board, I understand?—Yes.

1570. And you have been Secretary to the Lanarkshire Coalmasters' Association since its formation in 1886, and of the Scotch Coal Trade Conciliation Board since it was formed in January, 1900?—That is so.

1571. Are you also General Manager and Secretary to the Scottish Mineowners' Defence and Mutual Insurance Association, Limited?—Yes.

1572. And you have been connected with the coal trade all your life, I think?—Yes.

1573. And are you able, from your personal experience, to speak of the disputes which have arisen in the coal trade during the past thirty years?—That is so. I may say that I have been practically connected with the coal trade for over thirty years; for fully fifteen years I was commercial manager of one colliery company, and latterly for seven years as managing director of another; so that I have practical experience of the difficulties which employers have to contend with in managing their business.

1574. You were asked in September last by the Secretary to the Commission if you would give evidence before the Commission, I think?—Yes.

1575. And did you bring the matter before some of the representative bodies which you have mentioned?—I brought it before the Executive Committee of the Association, and they at once said that I should give evidence from my experience of these matters.

1576. Did you also bring it before the Coal Trade Conciliation Board?—I did, within these last few weeks.

1577. So that the evidence which you are going to give us may be taken as being on behalf of those bodies?—Of the coalmasters of Scotland.

1578. (*Sir William Lewis.*) The whole of Scotland?—The whole of Scotland; that is as regards the coal trade. There is a Shale Section, but we are not associated with them; they are a small body, however.

1579. (*Chairman.*) You were asked to give evidence particularly with reference to two points. The first was: Supposing the Bills which were given to you—I mean the Bills which have lately been before Parliament, dealing with trade unions and trade disputes, or any sections therein contained—were to become law, would they prejudicially affect you in your business, and in what manner?—Yes.

1580. What do you say about that?—I may begin by saying that I have seen the Memorandum prepared by Mr. Ratcliffe Ellis, law clerk, and Secretary to the Mining Association of Great Britain, with which Association the Lanarkshire Coalmasters' Association is affiliated, on the legal aspect of the Bills, and therefore I do not dwell upon the Bills from their legal standpoint.

1581. Do you agree with that Memorandum?—I do.

1582. I think we will ask you to produce it?—This is it (*handing in the same*). *Vide Appendices*, pp. 72 and 73. I may say that this matter was discussed by the Mining Association of Great Britain, and it was agreed that Mr. Ellis should, on behalf of the whole of the coalmasters of Great Britain, give evidence from the legal standpoint, and that the other witnesses were

only to deal with these matters from their practical knowledge. I understand that Mr. Ellis has not been asked to give evidence; but that it was considered that this statement which he had prepared was quite sufficient for the purpose of the Commission.

1583. I think you have also seen the evidence given by Mr. Guthrie?—Yes.

1584. Generally speaking, do you agree with it?—I do. Of course Mr. Guthrie is a member of the Mining Association of Great Britain, and he was present at our meetings when those matters were being discussed. Naturally I was anxious to see the lines on which he went in his evidence, in preparing my own evidence. But in preparing my evidence, I did not follow these lines exactly. I went independently.

1585. Will you just tell us what you have to say upon the subject yourself, with reference specially to the question of these Bills?—I agree with the views of both those gentlemen with regard to the prejudicial effects which the Bills would have upon the business of employers, were they, or any section of them, to become law; and that is also the opinion of our coal-owners. The desire of the promoters of the Bills is evidently to enable them, without fear of financial or other punishment, to have the means within their power to prevent workmen who are desirous of working from doing so. I am advised that at present, so long as a trade dispute is peacefully conducted, no legislation is necessary to legalise it, as it is now legal; therefore the intention of the promoters of the Bills must be to get something more than they have at present. That view of the matter I take from Mr. Ellis's print; he, of course, advises us on these legal points. Then with regard to peaceful persuasion, when the passions of men are raised during the time of a dispute, it would simply be impossible to conduct picketing (which is embraced in the term "obtaining or communicating information," and persuading any person to work or abstain from working) on peaceable lines. The experience of past years is that the tendency of picketing has been to end in violence, endangering the lives, not only of the workmen whom they were endeavouring to persuade from working, but also the peace and safety of the lieges at large. If that is so when such gatherings are illegal, and those taking part in them subject to fine and imprisonment, it is not difficult to foresee what would be the result when picketing could be done without fear of punishment. Picketing is, undoubtedly, encouraged by the unions, for it is well enough known that they pay those who engage in such work. Indeed, in the published Reports of the Lanarkshire Miners' County Union for the half year ending 30th June and 31st December, 1903, the sums of £42 3s. 6d. and £27 13s. 6d. appear as having been paid for picketing. Very large sums must have been paid in 1894, when picketing was carried on over a very large area.

1586. (*Sir William Lewis.*) That was during a particular strike?—That was during the general strike, when picketing was very rampant; but those sums were paid in what they term peaceful times, when there is no great disturbance but individual strikes all over the district in connection with a great variety of matters. Disputes are continually arising at individual collieries in connection with, I may say, a great variety of different subjects.

Mr. R.
Baird.

10 Aug. 1904.

Mr. R.
Baird.
10 Aug. 1904.

1587. And is picketing systematically adopted?—It is almost invariably the case if a strike continues for any time; there are always some who are willing to work, and the object of the union is undoubtedly to prevent these men from working.

1588. (Chairman.) Will you continue, please?—In Scotland we have not had any general strike among miners since the general strike of 1894, but there have been many minor strikes since then, and the undoubted tendency, when one takes place, is to picket the work and endeavour to prevent either old or new workmen from working. I see from the county union Report for the half year ending 31st December last that the union during that period had dealt with twenty-six strikes, for which they paid £7,378 of strike aliment. That is an instance of what I have said. There was no general dispute; these payments are for individual disputes at collieries in connection with different matters. A very prolific source of these strikes is forcing men into the union in connection with rates questions, questions of wages, picking dirt out of the coal, dirt scales, and a variety of subjects. These are three of the principal items that cause disputes. We had a great deal of trouble in connection with this dirt question—that is, foreign material in the coal—the workmen filling in an undue proportion of it. It seems to be almost impossible to arrange a universal scale for these matters; and disputes are very prolific.

1589. (Sir William Lewis.) May that period be regarded as normal, or is it exceptional?—It is normal; it is not exceptional at all. There is scarcely a time when there is not some strike going on. In 1894 the coal strike lasted from fifteen to seventeen weeks and terminated in complete success for the employers, but the coal-owners were of opinion that, had it not been for the intimidation which was so prevalent where indications were shown that men were willing to return to work, the strike would not have continued so long. At Bardykes Colliery, near Blantyre, a number of miners commenced work, and the number increased daily, until it became known that they had done so. Immediately, at the instigation of the miners' union, large numbers of men and women, the former armed with sticks, besieged the colliery gates morning and evening to molest the men who were working, and, through threats of violence, endeavoured to persuade them from working. The authorities became alarmed at the position that affairs assumed, and they brought from Glasgow and the surrounding districts all the policemen they could obtain, but, although they got a considerable number, they were powerless to control the crowds, and a special draft of policemen from Lancashire had to be procured to preserve the peace. The authorities at that time were greatly alarmed at the aspect which affairs had assumed, and arrangements were made to bring out the military, but, happily, their services were not required, as in some previous strikes. Picketing at that time was not confined to Bardykes, but it obtained at many other collieries, including Allanshaw, situated within the Hamilton burgh area. At that colliery the authorities were at their wits' end to cope with the large crowds which gathered, and matters were so bad that a riot was feared. I could have given many more instances, but I took the two principal ones, and I think it would be well just to read what was written at the time with regard to the question of picketing, which appeared in our printed reports, so that it was written before there was any Royal Commission appointed to consider the subject. The following paragraph from the Annual Report of the Lanarkshire Association for 1894 will show the extent to which picketing was resorted to at that time:—"In the later stages of the struggle the efforts of the Committee were specially directed against illegal picketing, and in endeavouring to get the authorities to take sufficiently resolute action there anent. On looking back, the Executive are convinced that if the authorities had used their power to prevent the illegal picketing and cruel intimidation that were so rampant for many weeks the strike would have collapsed much sooner, and a great amount of misery would have been saved to the miners and to the workmen engaged in trades affected by the strike, and much of the injury, from which the trade of the country still suffers, would have been avoided." I may say that at that time our Executive endeavoured to get an interview with the then Lord Advocate for Scotland to get him to take sufficient means to

put down the picketing; but they had great difficulty in getting access to him, and nothing special was done. We thought that the authorities ought to have taken more resolute action, and to have prevented these enormous accumulations of people on public highways surrounding the collieries; but we had great difficulty in that matter, and we had just to work with the material we could get locally. But that shows the strong views that the employers had then with regard to this subject. Then I give an instance of the most recent case of picketing which appeared in court, which I thought would be of some service in this matter. The most recent case of picketing with violence took place at the end of last year (which was therefore after the decision of the courts in the Taff Vale Railway case), at Baljaffray Colliery, near Glasgow. At the colliery in question a dispute arose with regard to the employment of non-union men. A number of union men, who were threatening trouble because of the employment of those non-union men, had been dismissed, and two of the dismissed men were tried in the Dumbarton Sheriff Court on 7th December last for following, jostling, and threatening two of the non-union men who were working. After proof, the accused were found guilty, and were fined £5 each, or with the alternative of fourteen days' imprisonment. The case is an illustration of how "peaceful persuasion" develops into violence; for the accused, on the advice of the agent for the union, stated that the men of the picket simply wished one of the non-union men to come to a meeting which they were holding for the purpose of explaining their grievances; but it was proved that the dismissed miners picketed the roads to the pit, and on the occasion in question one of the accused stepped out and gripped one of the men by the arm, while another attempted to catch hold of him. At the same time the word "blackleg" was shouted, and bad language used, as well as the expression, "We will do for you yet." On other occasions one of the men had been followed by a large crowd of men, women, and children, who beat on tin cans and shouted such epithets as "blackleg." In this strike the agents of the Lanarkshire County Union have taken a prominent part, and have given the men on strike financial support; and the accused were defended by one of the law agents of the Miners' Union. If the proposals in the Bills were to become law, it can readily be seen that such gatherings as described above would be multiplied, and become a source of annoyance and danger to the community. I may say that not only the men engaged, working under such circumstances, are subject to this annoyance, but also their wives and children are the object of this obloquy, and every means is tried to frighten them, so that they may have influence on their husbands in keeping them from work. There can be no question whatever of the tendency of this picketing to intimidate and coerce men to remain idle. There was a very clever little skit in one of our evening papers, which I think very forcibly illustrates this question of "peaceable persuasion." I may hand it in to the Chairman (*handing in the same*). It is founded on a speech made in the House of Commons when the subject was being discussed. I think it is very true.

1590. Do you advocate the abolishment of picketing altogether?—I think it should be undoubtedly put down. It is a weapon, I consider, which should not be in the hands of workmen to intimidate and force men against their will to work. These men, doubtless, have reasons for working against the will of the majority, and I think that, as citizens, they ought to be protected against this intimidation and violence.

1591. You think it is only fair to the workmen themselves?—Most undoubtedly. I think they have a right to be protected. I may say that in the Bardykes strike which I mentioned the men who were working signed a petition to the authorities of the Sheriff Court, asking for protection, and on receipt of same special means were taken to protect them. The whole of the men signed a petition to be protected against this state of matters; and I think they were entitled to it. It is a weapon that should not be in the hands of the unions to coerce men against their will.

1592. Is this question of non-unionists and unionists not working together a burning one in Scotland just now?—It is still with us. There are some men who for their own reasons, which they know themselves, do not wish to join the union; but they are simply forced. Unless they do that, they are put out of the pit. The men have

held meetings often and have said: "This pit will not work until you have joined the union." And we have had strikes in connection with that. There was one four years ago at Cadzow Colliery, where a number of non-union men were working, and the whole of the colliery—three pits, in one of our largest collieries—came out on strike against them. The masters agreed to support the company in this matter, and we paid a very large sum to the owners during the time the strike lasted; I forget at the moment how many weeks it continued, but it lasted a good many weeks. I think we paid between £4,000 and £5,000 to the owners for financial support to fight the question.

1593. (*Mr. Cohen.*) Who paid that?—Our Association.

1594. (*Sir William Lewis.*) It was entirely a question of union and non-union men?—Yes, entirely about non-union men, and the question is continually arising; but this was one of the largest strikes in connection with that subject. I deal indirectly with that in my subsequent evidence, in dealing with how the men are forced into the union against their will; but there is no doubt about it that it is very prevalent even now. There is scarcely a newspaper published without some such report; there are some newspapers which are the organ of the miners, and reports are sent weekly to these papers from the unions, and I see that the subject is nearly weekly referred to of the employment of non-union men in collieries, and the steps which have been threatened to be taken to get them into the union. But that is the favourite way of dealing with them—to throw the pit idle. They have even come to the masters and asked them to discharge these men. Some masters have yielded, and others have said: "No, we have nothing to do with your union; we do not care whether the men belong to the union or not, but we are not going to coerce men to join the union against their will."

1595. Have you had cases of stoppages where some of the men are simply backward in their contributions?—Yes, we have cases in that way also; and even some of the masters have been asked to collect these arrears of contribution. Of course, they have very rightly refused to do so.

1596. (*Chairman.*) Will you turn to the other part of your evidence?—With reference to question B, which requests "Illustrations of any trade union practices within your knowledge against which you are not, in your opinion, sufficiently protected by the existing law, or, if sufficiently protected now, against which you would cease to be protected to any, and to what, extent if the said Bills or any and which of the provisions therein contained become law:" the opinion of our people is that, as the law at present stands, their interests are sufficiently protected; but, if the Bills were to pass, the evils which presently exist, such as picketing, stopping pits through non-union men being employed, forcing men to join the union, etc., would be very much increased, and therefore they consider that the Bills should be opposed by every means possible. The employers have no objection to the existence of trade unions for the protection of workmen, but, when officials step beyond the bounds of prudence and commit an illegal action, then they, or the union they represent, should be held responsible for the loss unnecessarily thrown upon employers. When employers do anything illegal they have to bear the brunt by having damages awarded against them. In like manner the trade unions' funds should be available for illegal acts done by the officials of the union. The Taff Vale Railway decision has made the law clear in that direction, and our colliery owners are decidedly of opinion that that decision should be maintained, as it will, undoubtedly, help to restrain union leaders from unlawfully interfering with workmen who are willing to work and who have a right to be protected from molestation. Employers are very frequently subjected to considerable financial loss through union officials unduly interfering with the working of their collieries and throwing pits idle without notice, for very trifling reasons, and very often for their own union purposes. Especially is this the case where, as in Lanarkshire, the men work without notice, and in some cases on not more than one day's notice. Efforts have been made to get the unions to give the colliery officials notice prior to throwing a pit idle, or to take up the business in hand at the close of the day's work, but, while promises have been made that this would be done, the old practice is still carried on.

1597. (*Sir William Lewis.*) Does that mean that the collieries are carried on from day to day, and not by weekly or fortnightly notice?—That is so. We have not been able to get into Lanarkshire the fortnight's notice. It is the case in Fife; in Fife they are working on a fortnight's notice; but in Lanarkshire we have not been able to get it, and we find it a great disadvantage, because the pits are unnecessarily thrown idle, to the great loss of the employers.

1598. Does that apply to the whole of the collieries in Lanarkshire?—Yes.

1599. What about Ayrshire?—I think in Ayrshire they have the notice. I am not sure whether they have the fourteen days' notice there; but they are not subject so much to stoppages as we are in Lanarkshire. Lanarkshire seems to be the hotbed of all these disputes. They have had their struggles, of course, in Ayrshire, too, in connection with similar questions, but, from my knowledge, they are not so much harassed.

1600. But that is a temporary matter; it has not always prevailed in Lanarkshire?—It has prevailed for many years. The miners' unions have set their face against the fourteen days' notice. Of course they know the power it gives them. You have a shipping order for a large quantity of coals, and you expect to get the work done; but some morning you come and find your pits idle, and you are landed with the ship liable for demurrage, no notice being given; so that it is a source of great annoyance and great loss.

1601. How do you protect yourselves from demurrage in such cases?—Sometimes we have to pay.

1602. (*Sir Godfrey Lushington.*) And the fact that you have an important order in hand is perhaps a signal for the workmen to withdraw their labour and put pressure upon you?—Sometimes. In some cases they may not know; but of course when they see the sidings clear and no coals standing they know you are busy, and that is their opportunity. We have fewer strikes when the sidings are full and orders are scarce; but that is their opportunity, of course. Whenever they see the sidings clear of loaded stuff they know you have orders, and are busy; and thus they have a greater power to coerce the masters into their way of thinking.

1603. (*Sir William Lewis.*) Do you have the notice the night before or on the morning of the day?—We have no notice whatever. The men have come to their work time after time, and they have been stopped by their officials, or by the checkweighman who says: "No work to-day; they want a meeting to clear up some grievance."

1604. Do you mean to say that you allow the checkweighman to interfere between you and the workmen?—I was just coming to that. A prolific source of this idle time and annoyance is the action of the checkweighmen who are placed at most collieries. These are invariably union officials, and, from their official position as checkweighmen, are in a favourable situation to further the interests of the union, and to bring influence to bear upon the workmen to fall in with the union's orders. Their duty is to check the weight of every tub of coal put out by the individual miners, and there this duty should end; but should any workman put out a tub of coal more than what is considered by the union as the number that should be put out from any particular seam, they immediately report this to the union, and the erring workman is warned against continuing such a practice. Should he not pay heed to the warning, steps are taken to force him to keep to the regulation darg. The result is that in many cases the day's work is seriously interfered with and the cost of working unduly increased. You see that that also, of course, keeps down the individual earnings of a workman. A man with a large family, or one who is thrifty, may want to earn as much as he can when trade is good and he can get work; but he is hindered; he is limited to a certain fixed output, and he cannot put out a ton of coal more than what is considered the regulation darg. It is a great hardship on thrifty and industrious workmen.

1605. Does that apply to each colliery, or does it vary from colliery to colliery?—It is almost invariably the case in most of the collieries. They have what they call a certain darg to put out—it may be eight or ten tubs, according to the seam, or fewer; and, if they put out a tub more than that fixed darg, they are immediately brought to book for it. I think it is a great hardship upon an

*Mr. B.
Baird.*

10 Aug. 1904.

Mr. R.
Baird.
10 Aug. 1904.

industrious workman who wants to earn money when he can do it, and I do not see that it would injure the general position of the miners at all as a body, but it just shows the restraining influence that these trade unions seek to exercise.

1606. So that the maximum is practically the power of the idlest or the weakest?—That is so. Another source of annoyance and trouble arises through the checkweighman knowing the tonnage rates paid to the miners for producing the coal, and, when a reduction is made on these rates, the matter is reported to the union, who in most cases decline to allow the reduction to come into operation, even although the workmen may be quite willing to accept the lower rates. This is more specially applicable to new seams, or sections of seams, which are being opened out, where rates at first are fixed at a higher rate than that which should ultimately be paid. This is also another very fruitful source of idle time and annoyance. It is very well known by those who know colliery work that the condition of a seam is always varying. The rates may be fixed, and very often are fixed, when the condition is hard; a seam may be specially hard to get for some special reason such as the opening up of a new pit, or a new section, and you have to pay higher rates for that. The natural expectation is that, when the condition of the seam gets into its normal or favourable position, you will get the rates down. But the whole tendency of the union is to keep up the rates and prevent their getting to what they ought to be, the proper level. And in that way the employers are subjected to very great loss in not being able to work their pits at what they ought to be able to do it at.

1607. But has that point never been tested as to the checkweighman's interference; because it is contrary to the Act of Parliament that he should interfere in any case between the employer and the workmen?—I deal with that later on when I say that we are well enough aware of the Act of Parliament which gives power to the employer to take action against the checkweighman who interferes with his work; but, as I have already mentioned, the great difficulty is to get evidence.

1608. To prove it?—To prove it. With one man or two men amongst a big number, it is very difficult for employers to get this evidence. We have had cases in Scotland, and there was one in England quite recently. I think the report of it appeared in the *Law Times* within the last two or three weeks, where the checkweighman has been removed for interfering with the working of the colliery. But the difficulty we have to contend with is to get this evidence, and we are therefore strongly of opinion that these men should be neutral men, that they should not be union officials, and should be sworn to secrecy, and should have nothing whatever to do in connection with the working of the colliery, and interfering with the men. They are there certainly for the purpose of seeing that the coal is properly weighed, and a proper note taken of the weight of the coals. We say that is quite proper. If the pit-head man, or the employer, wanted to be dishonest he has great power in doing the weighing loosely, and we say that it is quite proper, in the interests of the workmen, that there should be a man to check the weighing. But his duties should end there; he certainly ought to be a neutral man entirely, not a party man, whereas our experience is that they are very active members of the union—they are there for union purposes.

1609. Of course you admit that the checkweighman is appointed in the interest of the workmen. The workmen appoint him?—Yes, it is the workmen who have the appointment. The checkweighman may be elected by the majority of the workmen, and the minority have to accept his nomination and to pay for him, whether they want him or not.

1610. But you contend that he ought not to be connected with any union?—Our people are very strongly of that opinion, because the checkweighmen are undoubtedly a prolific source of this annoyance and idle time.

1611. And of disputes — And of disputes.

1612. (Chairman.) Will you continue your evidence?—Checkweighmen also frequently interfere with the working of the colliery, and proclaim idle days, and take steps to keep the men from working. They also are in a position to see the presence of new workmen, who are compelled

to join the local union on the threat of the pit being thrown idle if they do not do so. All miners are by law forced to pay their share of the checkweighers' wages, so that non-union men are thus obliged to pay a man to harass and intimidate themselves into the union. Our people, I may say, are very strong in this opinion. Our chairman just mentioned the matter to me before I came away in connection with the annoyance they are subjected to. They hold very decided opinions with regard to this checkweighman question, and that something should be done in the direction indicated in my evidence here—that they should be neutral men. They have far too great power to the detriment of the general weal, and to the will of the workmen themselves. These workmen against their will are coerced into the union.

1613. (Sir William Lewis.) That would mean an amendment of the Mines Act?—Yes, I daresay. Instead, therefore of the powers of the unions to interfere with the liberties of workmen being extended, it is highly desirable, in the best interests of the workmen themselves, and of the prosperity of the country, that the great power which unions now undoubtedly possess should be kept within what may be termed legitimate bounds.

1614. (Sir Godfrey Lushington.) You said, I think, quoting from Mr. Ratcliffe Ellis's paper, that you are advised that, so long as a trade dispute is lawfully conducted, no legislation is necessary to legalise it, as it is now legal; but that the men now ask for something more. Should I be right in describing that something "more," which the men demand, as first of all that if the trade union commits illegal acts through its agent, the trade union funds should not be liable?—That is their aim.

1615. And the other is that certain things which are now illegal shall be considered legal?—Yes.

1616. I will give as an instance picketing and conspiracy?—Yes.

1617. Now, take the first of those two things: that is to say, the proposal practically to do away with the decision in the Taff Vale case, to declare that trade unions should be exempt from liability for the acts of their agents. You are not a lawyer?—I am not a lawyer. I am not prepared to discuss legal points, but only to speak from practical experience.

1618. You know enough of the law (and I suppose it is the law in Scotland as well as in England) to know that if the agent to a principal acts within the scope of his authority that act is attributed to the principal, and the principal is liable for the consequences?—Yes.

1619. That law applies where the principal is an individual?—Yes.

1620. Does it apply where the principal is a corporation?—Evidently the intention of the framers of these Bills is that powers should be given to take action on behalf of the union by more than one individual; that they are to be scatheless the same as if their action was done by one. Evidently one man may peacefully go to a workman who is working and try to persuade him.

1621. Do not let us confuse the question with picketing. I am speaking now of the principle of the liability of Trade Union Funds for the torts or illegal acts committed by the Trade Union agents?—Yes.

1622. Take persuading persons to break contracts. I have asked you whether the principal is not liable for the acts of his agent, if done within the scope of the agents' authority, where the principal is an individual?—Yes.

1623. And where the principal is a corporation or a company?—That is what we desire. We wish the principal or corporation to be held responsible for the acts of their agents.

1624. Can you suggest to me a reason why whilst an individual, a corporation or a company are liable for the acts of their agents, a trade union should not be liable for the acts of its agents?—No, I could not suggest that.

1625. Do you think this could be a reason, namely, that the trade union has no power to enforce its contracts against its own members—that is the law; you think that is a reason?—I do not know that I could say definitely, but I think it is quite patent that an individual has not got funds and the union has.

1626. But because the defendant is a poor man, that is no reason why you should make some other person who is

a rich man pay unless the rich man is really as liable as the defendant?—If that individual man is the agent of the union, we say the union for which he is acting should be held responsible for his acts.

1627. (*Mr. Cohen.*) That a trade union should be liable as if it was a corporation?—Undoubtedly. We think they ought to be.

1628. (*Sir Godfrey Lushington.*) The fact that a trade union has no power at law to enforce contracts with its own members is no reason why a trade union should be irresponsible towards outsiders?—I do not know that I am sufficiently a lawyer to answer that question.

1629. I want to know what is there in the nature of a reason or what is alleged as a reason why trade unions should not be as liable as other persons for the acts of their agents?—We think they ought to be in the same position as an individual.

1630. You do not think it right that a union should be at liberty through its agents to prompt men to break their contracts and to do £20,000, £30,000 or £40,000 worth of damage, and yet that the trade union funds should not have to pay those damages?—Certainly not.

1631. Supposing that the only reason why trade unions are not liable or were thought not to be liable for the acts of their agents was, that the legal procedure was insufficient for that purpose, do you think that the legal procedure ought to be amended in order to make trade unions liable?—So far as we are concerned we think that the law as it stands is quite sufficient to protect the masters as interpreted in this decision in the Taff Vale Railway case. We think the law as interpreted in that case is quite sufficient.

1632. And you are quite right too; but the question is, whether that decision shall be allowed to stand by the Legislature?—Our coal people think it ought to stand; that it ought not to be interfered with, for their protection.

1633. Very good. Then now we will proceed to the second part of our inquiry, I may say, namely, the proposal to make things which are now unlawful to be lawful, and we begin with picketing. Is this right as a general statement of the law: that picketing is now unlawful, except when it is only for the purpose of communicating or receiving information?—I understand that picketing on the part of one man who goes to a works and seeks to communicate the information he has got to the workmen who are working, is not illegal, but that it becomes illegal when a large crowd of workmen come there and seek to do the same.

1634. I do not know whether I must press the legal aspect of the question?—I am not prepared to enter into the legal question.

1635. The statute says nothing about large crowds?—I am not in a position to discuss the thing from a legal standpoint because I am not a lawyer; I am simply here to give evidence on the practical aspect of the case.

1636. You are aware that the law now is, that picketing is unlawful if it is for the purpose of peaceful persuasion, and you know that these Bills tried to make it lawful under those circumstances?—I do not know that I can differentiate between what might be considered legal picketing (if there is such a thing as legal picketing) and illegal picketing, simply dealing with it in its broad aspect; but it usually turns out to be, and there is no question that it very soon resolves itself into an illegal condition.

1637. The trade unions, judging from their publications, wish generally to keep within the law; but do you consider, from your experience of trade unions, that it is part of their faith that every workman should be left free to do as he likes, to work or not to work?—No, we know it is not; they try to coerce these men into their way of thinking and to join their union.

1638. I am not thinking so much of their acts, as of their creed; is it part of their creed, do you think, that workmen should conform, whether they like it or not, to what has been settled by the union?—I think there is no doubt about it.

1639. And that if they do not conform, they ought to be forced to conform?—That is, undoubtedly, the position of matters as it is just now.

1640. Therefore if their answer to the complaints of outrages and picketing is, "We admit that it is an abuse by individuals, but that cannot be charged to unionism,"

may not the reply be, that this abuse carries out what is really at bottom the whole policy of the union, namely, compulsion?—Undoubtedly, they want to compel everybody into their way of thinking.

1641. To compel them?—To compel them.

1642. When a strike takes place, of course there are a number of men thrown out of work; they have nothing to do; they naturally congregate round the place of work and they are very excited over what is going on?—Yes.

1643. Do you not think that that is a real danger to the liberty of the workmen who differ from them as to the policy of the strike?—There is no doubt whatever that when a strike takes place at a colliery, a large number of men who have no interest in the dispute are thrown idle; but our experience is, that as a rule they are very peacefully disposed. I do not know that I could remember a case where these men who had been thrown idle against their will have taken very active steps; there may be isolated cases; but as a rule the surface workmen and others who are thrown idle have just had to remain idle until the dispute was settled, and they have not taken any very active part in it, because they have nothing special to do with it.

1644. (*Sir William Lewis.*) You are now referring to the effect upon another class of workmen, not the same class?—No, not the same class which are affected by the matter in dispute.

1645. Sir Godfrey Lushington's question was more with reference to men of the same class who are affected?—I beg your pardon. I understood that he was referring to a different class in the same pit, such as pit-head labourers and on cost men, not interested in the question at all.

1646. They have no power or control?—They have not. I did not understand that the question applied to the same class of workmen.

1647. (*Sir Godfrey Lushington.*) "Peaceful persuasion" sounds a very innocent thing, does it not?—It does.

1648. But under the circumstances which you have mentioned, does it not very easily pass into intimidation?—It is the easiest thing possible, and it very soon does so.

1649. And that kind of intimidation of course is very oppressive?—It is undoubtedly.

1650. Is it not also extremely difficult to detect?—No, I do not know that it is difficult to detect. There are crowds assembled, you see, and it is easily enough known what their object is, and what they are there for. I do not know that it is difficult to detect.

1651. Is it not difficult to bring persons to justice?—Yes, it may be for persons. I was taking it collectively.

1652. There is nothing to make you uncertain as to whether oppression or intimidation is going on, but it may be difficult to bring persons to account who are guilty of it?—Undoubtedly. In the *Bardykes* case there was an interdict got against individuals to prevent their going on to the premises; but they just got as many more—they followed it up by others.

1653. Have you known any case in which persons have been charged with the offence of picketing when they have done nothing but peacefully persuade, and in fact where the law has been turned into oppression against them?—I do not remember a single case where it has been so. I think there always has been very strong foundation for their being charged with the offence.

1654. You say you are not a lawyer, but you do know, do you not, that picketing or watching a house for the purpose of giving or receiving information is permitted by law?—Where it is done by one or two.

1655. No, you do not find that in the Act of Parliament, do you?—You may take it from me that it is not in the Act of Parliament.

1656. (*Sir William Lewis.*) But that is the general impression?—For instance, Mr. Ellis quotes from the Conspiracy and Protection of Property Act, 1875.

1657. (*Sir Godfrey Lushington.*) Picketing, you see, is illegal, speaking broadly, except for the purpose of giving or receiving information. What is the information which is to be communicated or to be obtained,

Mr. R. Baird.

10 Aug. 1904.

Mr. R.
Baird.

10 Aug. 1904.

which you think should make picketing lawful and innocuous?—We think it is simply impossible to make it lawful.

1658. And you do not, I suppose, see much difference between peaceably persuading and giving and communicating information?—No.

1659. Therefore, as I understand you, you are not only opposed to allowing peaceful persuading to be an exception to the law against picketing, but you would wish to abolish the exception which now exists in the law in favour of picketing for the purpose of giving and receiving information?—Yes.

1660. (*Sir William Lewis.*) Abolishing picketing altogether?—Yes.

1661. (*Sir Godfrey Lushington.*) It comes to that?—From practical experience, there is no doubt about it that when picketing is resorted to, it goes immediately beyond the reason of going and telling a man quietly that he is not to work. I think it is almost an impossible position.

1662. (*Mr. Cohen.*) You would like to make besetting premises by one or two persons for the purpose of giving information illegal?—I do not know that there is much objection if it is confined to one or two persons.

1663. (*Sir Godfrey Lushington.*) But if one or two persons attend every day and all day, or in relays of one or two, to persuade or give or obtain information, do you think that should be permitted?—If it is confined to one or two, I think picketing would not be the force it is just now; but it is the crowds that come.

1664. It would not be the force it is now?—No.

1665. But would you make it permissible?—If we could get it made an offence, of course so much the better for the protection of employers and those wanting to work. There is not the same objection of course to one or two doing a thing in a quiet way, but we know it is almost an impossibility and has got beyond it in practice.

1666. (*Mr. Cohen.*) I think I can make your meaning plain. You think that picketing generally amounts to intimidation; your experience tells you that?—There is no doubt about it.

1667. And what you say is, that there is very great difficulty in proving intimidation, in actually proving it, I mean, in a court or before a magistrate against a person?—If it is not very difficult if a man is there, and he has a pailing stob behind his back, and stones, it is easy to know that he is there for an illegal purpose, and you catch him red-handed. The difficulty is to do it. Whenever a policeman comes near he throws these things down, and is a very peaceful individual for the time being.

1668. Then that is the real difficulty?—That is the real difficulty.

1669. In fact the picketing amounts to intimidation generally?—There is no question about it.

1670. If you will allow me to say so I do not think that any of the proposals would do away with that at all; because the real difficulty is that you cannot prove that a particular person has intimidated?—No, it is difficult to prove it.

1671. (*Sir Godfrey Lushington.*) But I must press this question. Supposing that a strike took place, say at a boot factory, and that the union placed pickets by relays of two persons only, who always stood at the door, and noted everybody who went out or went in, and proceeded to communicate and receive information, or supposing they might do that (also limited to one or two persons) in the case of a workman's house, would you think that should be allowable by law or not allowable?—We think not. We think that picketing should be put down as a power which should not be in the hands of the union to coerce people into their way of thinking.

1672. (*Sir William Lewis.*) Or individuals?—Or individuals.

1673. (*Sir Godfrey Lushington.*) Now I will take you to another point which comes out of what you have said, but is very much more difficult, and of course you need not answer the question if you find any difficulty in doing so; it is the question of conspiracy. On behalf of the workman the proposition is made that that which has been hitherto decided to be an actionable conspiracy shall

no longer be actionable. I will not ask you questions about the general law of conspiracy, but I want to put some few practical questions to you which are affected by the law of conspiracy. Do you think that it should be lawful for workmen to combine to strike?—I do not know that I would go the length of saying that a workman is not to strike work if he chooses to do so. I do not know that I should go so far as to say that the Legislature should step in and say that there should be no strikes.

1674. Do you think workmen should be free to induce others to strike, or that anybody should be free to induce workmen to strike?—No, I do not think that. I think that those who are willing to work should be protected and should be allowed to work.

1675. When I say induce, I mean peaceably induce—persuade?—There is no harm for one man to try and persuade another to do a certain thing. But what we object to is, that they should be allowed to coerce them.

1676. But we are not on the subject of intimidation at all; we are on the subject of conspiracy, which does not necessarily involve intimidation. Supposing only peaceable persuasion were used, do you think it should be lawful for a trade union agent or anybody to persuade workmen to strike?—I would not go the length of saying that it would be illegal to do that.

1677. It should be lawful?—Yes.

1678. Would that be so in the case of every strike, or would you make any exceptions to that. Have you thought it out?—I do not know that I have thought it out, but speaking from a practical point of view I think we must consider the liberty of the subject, the liberty that one man may have to speak to another in a friendly way, and say, "Well, we think we are suffering under a great hardship just now; this state of matters should be remedied, and the only way to remedy it is to abstain from work, and we would like you to fall in with our views upon this matter and not work."

1679. I want to know how far you push that. Supposing a strike were in contemplation against non-unionists, do you think it should be lawful for the trade union agent, or for anybody for that matter, to induce people to strike against their brother workmen?—I do not know. I answer generally saying that I do not see how you could very well say that a man was not to persuade another to do a thing. What we want is, that the man who wants to work should be protected; but that is a different subject you say.

1680. May I take it from you that you consider that a strike or the inducement of a strike against a non-unionist should in every case be lawful, of course excluding the idea of intimidation?—Where there is no intimidation that is, of course, a power that workmen have to compel their terms. I do not know that I could go the length of saying that every strike should be proclaimed unlawful.

1681. (*Sir William Lewis.*) Would you draw a distinction between a fellow workman speaking to his fellow workmen and a unionist agent speaking to the men and inducing them to cease work?—No, I do not know that there should be any difference there, so long as it is done peaceably.

1682. (*Sir Godfrey Lushington.*) Now let me put the same questions to you in their application to a secondary or sympathetic strike, if you know what that is?—Yes; one set of workmen supporting another.

1683. Do you think that a strike in sympathy, or inducing persons to strike in sympathy, from whomsoever that inducement comes, should be considered lawful in every case?—I could not go the length of saying that it should be made unlawful.

1684. Therefore, you mean it should be lawful?—Yes, so long as it is done in a proper way.

1685. Just one or two questions on the subject of checkweighmen. The object put forward for the appointment of checkweighmen was to secure fair weighing, was it not?—Undoubtedly.

1686. Do you think that was the real object?—I think there is no doubt about it.

1687. You think that the checkweighman ought to have nothing to do except the performance of his special duties?—His primary duty.

1688. That is the view, of course, of the Act of Parliament, is it not?—I think so.

1689. You say now that it is abused by the checkweighman, who takes advantage of his position to report to the union things which he observes there?—There is no doubt about it.

1690. Supposing, for instance, that it did fall, as it does not, within the duties of the checkweighman to see the accounts of the employers and to know what profit they have made, do you think it would be a violation of the position by the checkweighman if he reported to the workmen the profits the owners made in the colliery?—But they are not in the position of knowing that.

1691. But that illustrates my meaning. You suggest that he should be a neutral person?—Yes, we are very strongly of that opinion.

1692. Would you suggest that he should be appointed by a magistrate or magistrates, or some body like that?—Yes, that might be a way of getting a proper person.

1693. Would it be a difficulty that the checkweighman, by whomsoever appointed, is paid by the workmen?—He is paid by the workmen, because he is there in the workmen's interests, to protect their interests.

1694. Do you think it would be a difficulty that he is paid by the workmen, if he was a neutral person?—I do not know that it would be any more than it is just now.

1695. Do you not think that under those circumstances, the employed have a right not to only have a checkweighman but to choose him to act for their interests, as the weighman is chosen by the employers to act for the employers' interest?—We have no objection to his being appointed by the men themselves, by ballot as at present, but we say that there his duties should end.

1696. But you cannot expect, can you, that if he is appointed by the workmen themselves he should be a purely neutral man?—That is the view of our people, that he should be a neutral man.

1697. (*Mr. Cohen.*) What have you to say to the proposal that there should be one person to ascertain the weight who should be appointed by an independent authority, either by the Government or a magistrate?—I do not think there would be any objection to that.

1698. (*Sir Godfrey Lushington.*) But I do not think you have taken my point, or I have not made it quite clear. At present the checkweighman is paid and appointed by the workman?—Yes.

1699. He is forbidden by the Act to do anything beyond his duties?—Yes.

1700. Yet he does act beyond his duties, and you find him a source of great trouble in the pits?—That is so.

1701. You want to have that remedied?—Yes.

1702. How are you going to remedy that so long as the appointment of the checkweighman rests with the workmen themselves?—By some extension of the law as it at present stands. There is the protection that the Mines Act gives just now; but the difficulty, as I state, is to get a conviction against the man. We would like the matter to be made more clear, that he is not on any account to interfere with these disputes.

1703. Have you the words of the Mines Act here; I think they are perfectly clear?—I have not got the Act here.

1704. Your suggestion is that the checkweighman should no longer be appointed by the workmen, but by an independent authority?—I did not make the suggestion, but I think that would solve the difficulty, that he should be appointed by someone in authority who has no duty whatever but to see justice done; who knows the qualifications of the man for the duty and appoints him.

1705. (*Sir William Lewis.*) And he would have no temptations to interfere in the interests of unionists and non-unionists?—Just so.

1706. (*Sir Godfrey Lushington.*) Do you know of cases in which the checkweighman is not an active member of the union?—I do not. I think you may take it that they are invariably active members of the union; they are there for the union purposes. The *modus operandi* is this: if a new pit is started and a few men get in, the union steps in and says, "We must have a weighman here;" and they set about getting it done.

1707. (*Mr. Cohen.*) In fact you think that the Mines Regulation Act ought to be amended?—In that direction.

1708. And, so far as you can judge, you see no objection to the plan of some independent authority appointing the checkweighman?—I see no objection whatever to that.

1709. Now as regards the liability of a trade union, you think that a trade union should be liable just as if it were a Corporation?—Undoubtedly.

1710. You see no reason why it should not be liable?—None whatever.

1711. So that if the executive orders an illegal act to be done, the trade union should be liable, just as a corporation would be liable?—Certainly, that is our view.

1712. Now, as regards picketing, the evil of picketing really, in your opinion, is that it amounts generally to intimidation?—That is so.

1713. If it did not amount to intimidation you would have no objection?—There would not be the same objection to it.

1714. Therefore if intimidation can be put down that is enough?—Yes.

1715. You are a member of the Scotch Coal Trade Conciliation Board?—I am Secretary for the coalowners.

1716. And what does that Board do?—It simply deals with the question of general wages.

1717. Of whom does that Board consist?—Twelve representative colliery-owners and twelve representative miners appointed by the Miners' Federation.

1718. And over what area does it extend; does it include many miles?—It covers the whole coal area of Scotland—Ayrshire, Lanarkshire and Slamannan, Stirling, Fifeshire, and the Lothians.

1719. Who appoints the representative of the workmen?—The Federation.

1720. The trade union?—The trade union themselves.

1721. So that in so far as the Conciliation Board works well, the trade union is an essential element?—Yes. Of course it simply deals with questions of wages.

1722. And in your opinion the Scotch Coal Trade Conciliation Board has done a great deal of good work?—In respect of keeping pits working on the wages question.

1723. You are also Manager and Secretary to the Scottish Mineowners' Defence and Mutual Insurance Association?—Yes.

1724. What is the object of that Association?—It is entirely in connection with the Workmen's Compensation Act, administering that Act on behalf of the mine-owners.

1725. Have you read the Report of the last Commission appointed to report on the Employers' Liability and Workmen's Compensation Acts?—I have not seen the Report. I have only seen a newspaper excerpt of it.

1726. I daresay you have seen from that extract that the Commissioners are of opinion that the trade unions have done a great deal of good in the way they have advised workmen on these questions?—That is not our experience. I may say I gave evidence before that Commission.

1727. So that you do not agree with the opinion of the Commission?—No; we know that we have suffered greatly from the miners' unions in connection with these cases, fighting them irrespective of their merits.

1728. (*Sir William Lewis.*) With reference to the Federation appointing their representatives on your Board. I assume that it would hardly be necessary to have a Federation to make such appointments; as the whole of the pits in a district could appoint persons equally well?—Of course they could; but having their organisation they appoint them, and they are there representing various districts. The union appoints these representative men.

1729. You have nothing to complain of about them with respect to that particular matter?—Nothing.

1730. (*Chairman.*) As a practical man, did you ever know of a case of picketing which was for the purpose of communicating information only?—No.

Mr. R. Baird.

10 Aug. 1904.

EIGHTEENTH DAY.

Wednesday, 23rd November, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Bart.
Sir GODFREY LUSHINGTON, G.G.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.
SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*.)

Mr. CHARLES KENSHOLE called and examined.

Mr. Charles
Kenshole.
23 Nov. 1904.

1730a. (*Chairman*). You appear to give Evidence on behalf of the Monmouthshire and South Wales Coal Owners' Association? — Yes; I am solicitor to the Monmouthshire and South Wales Coal Owners Association and attend to give evidence at the request of that Association. I have prepared a statement dealing with the position of the Association, and certain facts and figures as to the South Wales Miners' Federation, of which many of our workmen are members, and also a statement giving the facts as to agreements in force between the employers and workmen, and particulars as to strikes. The statement is as follows:—

The output of coal for South Wales and Monmouthshire for the last year (1903) was 42,153,287 tons.

The proportion represented by the members of the Association was 33,734,311=80·02 per cent, of the total output.

The number of workmen employed at the collieries in South Wales and Monmouthshire was 159,161, while the number employed at the collieries of members of the Association was 127,360.

Of this number, according to their balance sheet, 125,586 are members of the South Wales Miners' Federation.

The South Wales Miners' Federation is a Trades Union, which was registered under the Trades Union Act, 1871, on the 20th day of April, 1899. I produce a copy of their registered Rules.

The objects of the Federation as set out in the Rules are:—

- (1) To provide funds by entrance fees, contributions, levies, donations, and fines to carry on the business of the Federation in the objects thereafter specified, the same to be disbursed as provided in the Rules.

(2) To take into consideration the question of trade and wages and to protect workmen generally and regulate the relation between them and employers.

(3) To seek to secure mining legislation affecting all workmen connected with the Federation.

(4) To call conferences to deal with questions affecting the workmen of a trade wage and legislative character.

(5) To endeavour to secure by legislation the reduction of the hours of labour in mines to eight hours from bank to bank, and to oppose the system of double shift except where absolutely necessary for the purpose of ventilation.

(6) To watch all inquests upon persons killed at the mines when more than three persons are killed by one accident, and to seek to obtain compensation for all injuries caused by accident in and about mines.

(7) To provide a weekly allowance for the support of members who may be victimised, locked out, or on strike, and to resist any unjust regulation connected with their employment.

(8) To prevent illegal stoppages of wages at the pay office.

(9) To assist and to affiliate with kindred associations that have the same objects as were thereafter stated.

(10) To endeavour by all legitimate means to secure the abolition of sub-contracting in mines.

I have obtained the following particulars from the balance sheets of the Federation which are filed with the Registrar of Friendly Societies under the Trades Union Act.

For the year ending:—

December 31st.	Number of Members.	Receipts.	Expenditure.	Balance in Hand.	Amount of Strike Pay Paid.
1899	104,212	£54,456	£5,091	£49,365]	£1,343
1900	128,964	£53,877	£8,393	£94,849]	£4,002
1901					
1902	127,435	£65,526	£21,676	£166,426	£12,069
1903	125,586	£91,454	£32,776	£158,518]	£20,403

For many years prior to the 31st day of March, 1903, wages in the Monmouthshire and South Wales Coal Field were governed by an agreement entered into between employers and workmen known as the Sliding Scale Agreement, the wages payable to the workmen being regulated by the average nett selling price of large coal as ascertained by periodical audits. Advances and reductions in wages took place in accordance with the scale set out in the Agreement.

I produce a copy of the last Sliding Scale Agreement, dated 1st September, 1898, which embodied the Agreement of 1st January, 1892. (*Vide Appendices, p. 38*).

Under Clause 3 of the Agreement of 1892 the Sliding Scale Joint Committee consisted of eleven representatives of the employers and an equal number of representative of the workmen, and this Committee was the duly constituted authority for the purpose of carrying out the provisions of the Sliding Scale Agreement.

Upon reference to Clause 17 it will be seen that all disputes taking place at the collieries were, failing agreement, to be referred to the Joint Committee, and that notices to terminate contracts were not to be given until the Committee had considered the matters in dispute and failed to agree.

Under Clause 23 contracts were only determinable upon a month's notice, to be given on the 1st of any calendar month.

Under the Agreement the workmen's wages went up to 78½ per cent. above the standard in 1901, and when the Agreement was determined on the 1st day of January, 1903, by the workmen's representatives having given six months' notice, the wages were then 48½ per cent. above the standard.

In March, 1903, a fresh Agreement, which is the one now in force, was entered into between the employers and workmen, a copy of which I produce (*Vide Appendices*, p. 39), which provides for the formation of a Conciliation Board, consisting of twenty-four representatives of the employers and twenty-four representatives of the workmen, with an independent chairman, who is, however, only to be called in when either employers or workmen desire any change in the general wage rate.

This Agreement differs from the old Sliding Scale Agreement in that it provides that—

During the continuance of the Agreement the rate of wages shall not be less than 30 per cent. above nor more than 60 per cent. above the December, 1879 Standard, whereas under the Sliding Scale Agreement there was no minimum or maximum.

When either party desires to vary the rate of wages the Board is to meet to consider the same, and failing an agreement the independent chairman has to be called in, and he has to give his casting vote.

Either party may bring before the Board or independent chairman any matter which they considered as factors bearing upon the general wage question.

There has not for many years past been any serious trade disputes in the South Wales Coal Field, with the exception of a strike which took place in 1898, when the workmen gave notice terminating the Sliding Scale Agreement. This strike lasted from 1st April to the 1st September in that year, when the Sliding Scale Agreement was renewed, and continued in operation until the 31st day of December, 1903, when the conciliation agreement now in force came into operation.

There have, however, been frequent stoppages at individual collieries on the part of the workmen with a view to compelling those of their number who were non-unionists to join the Federation, and such stoppages have entailed serious loss upon the employers.

The employers have throughout declined to interfere between unionists and non-unionists, and have insisted that their collieries should be open to both, no inquiry being made when a workman is engaged whether he is a unionist or non-unionist.

The course adopted by the Federation where non-unionists are engaged at a particular colliery, or where there are unionists who are in arrear with their subscriptions to the Federation, is to order that the workmen shall cease work at the colliery, until such workmen have either joined the Federation or paid up their subscription, as the case may be, which practically means that such workmen are coerced into joining the Federation. In some cases I have known workmen who are unionists decline to enter the cage with non-unionists and thus cause a stoppage of the pit.

Since the South Wales Miners' Federation was registered under the Trades Union Acts, there have been, taking the period from August, 1899, to August, 1904, sixty-eight strikes at the different collieries of the members of the Association upon the unionist and non-unionist question, involving a loss of output of 256,000 tons. Of these strikes thirty-one were without notice, and the remaining thirty-seven were after notice to terminate contracts.

The average duration of the strikes was 3·5 days, and the longest was seventeen days. The number of workmen affected where notice was given was 48,000, and where no notice was given 32,000.

1731. In your judgment has the decision in the Taff Vale case affected the actual frequency of stoppages?—Most certainly.

1732. What has been the state of affairs in that matter since the Taff Vale decision?—Since the Taff Vale decision, taking the year 1903 for instance, there were only two stoppages upon the unionist and non-unionist question, while in the present year there has not been a single stoppage without notice.

1733. And in your judgment is that good result due in some part to the Taff Vale decision?—Most certainly. *Mr. Charles Kenshole.*

1734. Now I think you were asked to consider the propositions that had been made by persons acting in the alleged interests of the Trade Unionists in the Bills (*Vide Appendices*, pp. 7 and 8) in Parliament?—I was. *23 Nov. 1904.*

1735. And you have considered Sir Charles Dilke's Bill?—I have.

1736. What is your view if that Bill became law?—If that Bill became law, in my opinion the employers would be very much prejudiced by it, because, speaking for South Wales and Monmouthshire in particular, they would certainly be placed entirely at the mercy of the Federation.

1737. Will you just give your reasons, or point out how you think the Bill would prejudicially affect them?—In the first place under the conciliation agreement existing between the workmen and employers there is a provision to the effect that no contract shall be terminated unless by giving the usual month's notice, and if that Bill became law there is nothing to prevent the Miners' Federation, or its officials, upon the occasion of any trade dispute between the employers and workmen, calling out the men at any time without any notice.

1738. And making them break their contract?—Procuring them to make breaches of their contracts.

1739. (*Mr. Cohen.*) You mean the Trade Union funds would not be liable?—The Trade Union funds would not be liable.

1740. (*Chairman.*) It goes rather further than that, because the first section of Sir Charles Dilke's Bill provides for immunity from every form of process?—That is so; and I would point out with reference to that, that these disputes at the various collieries are constantly occurring, and if the Federation thought proper they might at any time, upon any occasion in order to compel the owner to fall in with their views, adopt this course, and the owner would be practically entirely at the mercy of the Federation.

1741. Do you think if there was no fear on the part of the Federation that they would incur liability, according to your view of human conduct, they would be likely to ask the men to break their contracts?—I think certainly where, for the purpose of obtaining their own ends, they thought it desirable to do so, they would do it.

1742. As an illustration of that, do you want to refer to the facts in the case of the *Glamorgan Coal Company v. The South Wales Miners' Federation*?—I do.

1743. Which is reported in 18 Times Law Reports, page 810?—I am not quite certain as to the Times Law Reports, but in the Law Reports it is reported in I King's Bench, 1903, page 118.

1744. You appeal to the facts disclosed in that case as an illustration of what would happen?—Clearly.

1745. What do you say to the suggestion that the facts as set out in that case would not constitute a trade dispute within the meaning of Sir Charles Dilke's Bill?—The facts in that case do not amount to a dispute as between the employers and the workmen, for the reason that the officials of the Federation called out the men on that particular occasion as they thought with a view to bringing about a restriction of output; there was no dispute, so to speak, between the employers and the workmen, but it was their view that it was desirable to bring about a restriction of output, and that is the reason why they called out the men, and therefore I do not think the facts in that case would amount to a trade dispute within the definition.

1746. They might or might not; of course, I cannot tell how a court would eventually construe a trade dispute, but supposing you began matters by the men acting on the advice of the Federation saying that the output should not be greater than so and so, and the employers saying, "Well that will not suit us, and we want the output to be greater;" do you not at once get a dispute?—That would be a trade dispute, but that was not the case there because what was done on this occasion was done entirely on the initiative of the Federation without consulting the employers.

1747. (*Sir William Lewis.*) But there was no question raised as between the employers and employed; the

Mr. Charles Kenshole. Federation arrived at a certain decision, and they instructed the men to come out without giving the employers any notice whatever?—That is so.

23 Nov. 1904.

1748. There was no previous discussion which culminated in their differing?—No.

1749. (*Chairman.*) Is your point this, that even although it might be said that on the facts of that case there was not a trade dispute, it would always, if they wanted to carry out that course of conduct, be excessively easy for them first of all to make a trade dispute and therefore get them within the clause of the Act?—Yes, and adopt the same course as they did before. I might mention several other instances where, for instance, the Federation have procured the men to commit breaches of their contracts. Prior to the Taff Vale case this very frequently happened, that whenever it was found that there were any non-unionists working in a colliery the men in those cases would be withdrawn by the Federation without any notice at all. That very frequently happened, but since the Taff Vale case that has practically not happened at all. Subsequent to the formation of the South Wales Miners' Federation there were thirty-one strikes without notice, and those were cases chiefly, as I say, where non-unionists were found to be working, and the men were withdrawn until the non-unionists joined the Federation.

1750. (*Sir William Lewis.*) Or they were forced to work?—Yes.

Vide p. 123, ante, col. 1.

1751. (*Mr. Sidney Webb.*) You say in the proof of your evidence that there were thirty-one strikes without notice: you mean thirty-one breaches of contract by the men ceasing work without giving the one month's notice?—That is what I mean; I mean the men had been withdrawn.

1752. (*Mr. Cohen.*) Do you mean on thirty-one different collieries?

1753. (*Mr. Sidney Webb.*) On thirty-one different occasions they ceased work in breach of contract?—Yes, at different collieries.

1754. But you do not tell us whether the actual number of strikes with notice has been either greater or less; a strike may be without breach of contract?—True.

1755. And this refers only to strikes in breach of contract?—The thirty-one I refer to were in breach of contract, and the other thirty-seven were after notice to terminate contracts.

1756. (*Chairman.*) Your point is that, according to your view, the Taff Vale decision has had a most practical effect on the question of strikes in breach of contract?—Quite true.

1757. (*Sir William Lewis.*) And in addition to that you mention, referring to these strikes without notice, that there were also thirty-seven strikes where notice had been given?—That is so.

1758. So that there were sixty-eight strikes since the establishment of the Federation in South Wales?—That is so, upon the unionist and non-unionist question.

1759. (*Mr. Cohen.*) I suppose there were strikes before the establishment of the Federation?—That is so; but what I wish to point out particularly is, that of these strikes, thirty-one were without notice.

1760. (*Sir William Lewis.*) Are you able to say whether the strikes have increased or decreased since the federation has been established in South Wales?—I have not the figures, and I could not say that.

1761. (*Chairman.*) Now to pass to picketing, and the proposals in Sir Charles Dilke's Bill, will you tell us your experience?—With reference to picketing generally, I regard it as a species of coercion, and it generally leads to breaches of the peace. In large centres of industry, such as we have in South Wales, feeling runs very high in the case of strikes, and in such cases I venture to think that breaches of the peace must almost necessarily take place, as shown by one particular instance I can give. There was, some three or four years ago, in Aberdare, at one of the collieries, a strike where the majority of the men came out on strike, but there were a number of men who desired to work. In that particular case the men who came out on strike got up a demonstration and proceeded to the colliery to meet the men as they came out from work. The avowed

intention, as I shall be able to show directly, on the part of the men on strike was that the men who continued to work should see that there was perfect unanimity on their part; and by that means they hoped to induce the men who had continued work to come out. That was the avowed intention of the demonstration upon that occasion, but upon their going down there, what took place was this, that as soon as the men who had continued to work came out, hostile demonstrations were made against them, the men were booed, and had to get away the best way they could from their work; they could not proceed home in the ordinary way along the highway, and had to get away the best way they could, and proceedings were taken against the miners' leaders, because they headed the demonstration on that occasion, and took part in it, and for the besetting of a particular colliery, with the result that they were convicted and sentenced to imprisonment. Now I give that as an instance of what I venture to say in nine cases out of ten would take place in the case of strikes of any magnitude at large centres of industry of this kind.

1762. Where picketing was allowed?—Where picketing was allowed. At present, of course, picketing is allowed to this extent, that they are entitled to attend for the purpose of giving information, and even then there is very great danger of breaches of the peace; but if it is to go further by what is described as peaceful persuasion, I think the danger will certainly be very considerably increased.

1763. (*Sir Godfrey Lushington.*) I think in this particular case Mr. Brace said at a public meeting, "You will now go and persuade those at work, and you know there are different modes of persuading," or was it in the Taff Vale case?—Not in this case; I think Mr. Brace had nothing to do with this case. The leader in this Aberdare case was Mr. David Morgan, the miners' agent in that district;

1764. (*Sir William Lewis.*) And David Morgan was convicted?—Yes, he and certain others were convicted and sentenced to imprisonment; There the avowed object of the demonstration was that the men working should see that there was perfect unanimity on the part of their fellow-men who remained outside and refused to work, but it resulted as I have stated;

1765. (*Chairman.*) Really, I think I am not doing you injustice if I say that your view comes to be a very simple one upon that, that with human nature as it is picketing nearly always leads to further abuses which are not picketing, and that the more picketing you have legalised the more likely you are to have the other abuses following?—Certainly.

1766. Or practical coercion of the men?—Yes. I do not know whether I may be permitted to refer to certain extracts I have got from certain newspapers which would show to the members of the Commission the extent to which feeling runs in these cases. These are instances also where complaints had been made by the members of the Association to the Association with reference to the conduct of these people.

1767. Do you know personally about these cases mentioned in the newspapers?—Yes. I hand in a few extracts from newspapers at the time giving an account of various incidents in strikes; I was personally acquainted with the circumstances at the time and believe that the accounts given in the newspapers are a fair representation of what was happening. They are not comments, but simply statements of fact.

1768. (*Sir William Lewis.*) Do they include any illustration with respect to the coercion of the non-unionists?—They do.

The following newspaper extracts were handed in:—

South Wales Daily News, 16th June, 1903.

GARW MINERS AND NON-UNIONISTS QUESTION.

The miners of the Garw held a demonstration on Monday evening. After parading the valley, headed by a band, they repaired to the Public Hall, Pontycymmer, where a large mass meeting was held to open the campaign against non-unionism. Alderman John Thomas, miners' agent, presided, and was supported by Messrs. D. Watts Morgan and A. Onions;

The Chairman said that if they would not listen to reason, steps would have to be taken to compel those outside the organisation to do their duty to their families, to themselves and to their fellow-workmen by joining the Federation. He expressed indignation at the remarks of a member of the Bridgend Board of Guardians, who called the colliers of the district ignorant, sickly and bandy-legged.

Councillor Jenkin Williams, President of the Garw Association, proposed a resolution asking non-unionists to consider their position, and informing them that unless they joined the Federation their names would be submitted to the Executive Council. Mr. John Jenkins seconded.

Councillor Evan David moved a resolution protesting against the epithets used at the Board of Guardians, and asking the Glamorgan County Council to cause a redistribution of seats on that Board. Mr. John Thomas seconded.

South Wales Daily News, 2nd July, 1904.

NON-UNIONIST DIFFICULTY—SETTLEMENT ABERAMAN.

A mass meeting of the 2,000 men on strike at Aberaman in reference to about fifty non-unionists employed in the colliery was held last evening at the Plough Tip, when the committee reported that as the result of persistent efforts on their part they had now brought the trouble to a satisfactory and amicable settlement. During the day they had visited at their homes all who had not joined as well as all who were in arrears with their contributions and as a result they had got every man "up to the scratch." Every man, a member of the deputation said, had been brought into line or had cleared out of the district. It was then unanimously agreed that work be resumed by the night men on Sunday night and by the day men on Monday morning. A deputation conveyed the intelligence to the management and Mr. Hann agreed to the withdrawal of the notices.

A member of the deputation then said that the committee had taken into serious consideration the future and they had come to the conclusion that if such trouble arose again they would have to consider not how to get the men to pay up but rather whether they would be allowed to join the Federation at all; whether indeed they would be allowed to work. ("Hear, hear" and a cry of "Serve them right too"). If this resolution were carried out the committee were determined that a list of those men should be printed—a veritable black list—and communicated to every colliery lodge throughout South Wales and Monmouthshire which was governed by the Conciliation Board and the committee felt that it was a scandalous thing that 98 per cent. of the workmen should lose two days work as on the present occasion for the purpose of getting the remaining 2 per cent. into line especially as the committee had done all in their power to get these men in before tendering their notices and again during the month while the notices were running.

Western Mail, 9th August, 1904.

SOUTH WALES COAL TRADE—POSITION OF THE STRIKERS AT MARDY—NON-UNION LODGERS SUGGESTED MEETING OF WOMEN.

Though a comparatively speedy termination is expected of the Mardy strike there was no very marked improvement in the position on Monday and affairs continue to be rather indefinite. About thirty of the non-unionists paid up on Saturday but there appears to be some difficulty in ascertaining how many yet remain in the district who are out in compliance with the Federation rules. Every householder in Mardy has fallen into line and the difficulty is therefore with regard to the lodger element in the district.

At a mass meeting of the men held on Monday afternoon it was decided to make a house to house canvass with a view to ascertaining the actual position of affairs and also to bring pressure to bear to prevent householders giving lodgings to non-unionists. It was suggested that a meeting of the women of the place be held to deal with this issue but this suggestion was not acted upon.

South Wales Daily News, 10th August, 1904.

Mr. Charles Kershole.

23 Nov. 1904.

NON-UNIONIST CHASED—EXCITING SCENE AT MARDY. EARLY SETTLEMENT OF THE STRIKE PROBABLE.

Another mass meeting of the Mardy colliers now on strike was held on Tuesday when the deputation gave their report on the house to house canvass instituted on Monday night. A number of the non-unionists had responded to the appeals but six still remained outside the Federation.

An exciting incident occurred on Tuesday morning. When a well-known non-unionist was leisurely walking up one of the streets he was spotted by a number of females who made remarks not very complimentary to him. He was followed up the street and although only subjected to some characteristic reckoning up on the part of some of the ladies he made tracks for the mountain.

On Tuesday afternoon a non-union man was turned out of his lodgings and was followed by a good humoured crowd as far as Ferndale. Unfortunately for the former he and the crowd arrived at Ferndale just in time to meet the men there going home from work and upon the non-unionist being recognised the chase was taken up by the Ferndale men. The non-unionist, however, made good his escape.

South Wales Daily News, 16th October, 1904.

LODGING NON-UNIONISTS.

The Ogmore and Gylfach Miners Association have issued a circular asking householders not to let apartments to miners who are not members of the Federation. An influential member of the district committee, who was asked by our representative for information on the matter, said there are no non-unionists in the district with the exception of a few at Nantymoel, but there were what might be termed tramping colliers continually moving from colliery to colliery and receiving benefits of the Federation without subscribing to it. The district committee wanted to clear these men away and save friction and prevent a stoppage such as that at Hirwain. Therefore the circular had been issued. The chairman of the Association (Mr. John Evans) said the same thing had been done at Gylfach, with very good results. The men at Nantymoel were now serving a month's notice, given on account of non-unionism, but it was hoped there would be no necessity for a stoppage.

South Wales Daily News, 3rd November, 1904.

NON-UNIONIST DIFFICULTY.

The men at the Coegnant Colliery, Maesteg, who came out on strike on Tuesday in consequence of the employment of non-unionists were at night prepared to return to work the non-unionists having all joined the Federation. A deputation of the workmen with Mr. Beynon, the miners' agent waited on the management and were referred to Mr. J. P. Gibbon the Mining agent of Norths Collieries as to whether they should return to work. Mr. Gibbon said that in the absence of Mr. J. Boyd Harvey, managing director, who is on a visit in Spain he could not give an answer until he had communicated with his directors in London. On Wednesday, Mr. Gibbon telegraphed to London asking whether he should allow the men to return to work. The workmen met again at night and still no answer had been received from the directors. The stoppage is likely to continue until the management inform the men that they may return.

Extraordinary measures were taken by the men on strike to induce the non-unionists to join. The place was divided into districts and a house to house canvass was made. The women took a very great interest in the proceedings and showed a great deal of feeling. Where the non-unionists were found to be lodgers the women insisted on their being given instant notice to quit with the result that all the non-unionists very shortly paid up.

1769. (Chairman.) What do you think would be the practical effect of the assembly of a large number of men, say 100 or 150, as pickets with the avowed object of peacefully persuading a man not to accept work?—My view is that it would have the result of intimidating the men and they would be afraid to go to work, with a large body of men posted about the colliery in that way.

Mr. Charles
Kenshole.
23 Nov. 1904.

1770. Then practically does your view come to this, that if picketing is allowed in anything like numbers, peaceful persuasion becomes a contradiction in terms ?—It is impossible according to my view.

1771. (Sir William Lewis.) And with even a very much less number than 100 ?—Yes, even a less number than 100—50 would have that effect.

Vide p. 123,
col. 1.

1772. (Chairman.) I think you have a pregnant remark in your proof about the particular effect in collieries connected with the necessity which we know exists in many collieries of keeping the water out ; will you say what you have to say about that ?—In collieries it is absolutely necessary that men should be kept on for the purpose of attending to the pumping of the colliery whether the work is going on or not, to prevent the colliery being drowned out.

1773. (Sir Godfrey Lushington.) And also to maintain the supports in the collieries, to prevent the ground sinking down and closing up all the roads ?—Well, very often the men who attend to that work might be out on strike and there would not be a sufficient number of men to attend to that particular work, but more particularly the men would be required for the purpose of attending to the pumping to prevent the colliery being drowned out.

1774. (Sir William Lewis.) This is the case where the men are not on strike but are attempting to continue at work, as I understand this paragraph in your proof, and they are interfered with and prevented from continuing their operations by the strikers ?—Yes.

1775. With the result that the pits are filled with water ?—That is so ; the men in this particular case were interfered with and a large number of them did not come to work, and the officials had to go and attend to that particular work of pumping.

1776. They were terrorised ?—They were terrorised ; the other men would not come to work.

1777. (Chairman.) I suppose it does not really come to more than this, but it is of course quite enough, that in a colliery quite apart from the question of whether work is going on or not, it is absolutely essential to the preservation of the property that a certain amount of necessary work in connection with pumping goes on ?—It must be done.

1778. And therefore if those men are interfered with in any way the result is a peculiarly disastrous one ?—That is so.

1779. (Sir Godfrey Lushington.) I will first ask you a question or two on your statistics. I quite understand what you say as to the effect of the Taff Vale case being to reduce the number of strikers in breach of contract, and what I am to ask is with reference to that. If you take your figures the contrast between 1902 and 1903 seems rather strange ; in the first place the number of members has increased only by 2,000, but the receipts have increased from £85,000 to £91,000, and I wish to ask whether that difference is to be accounted for by the fact that there were more strikes, and that there were extra levies raised ?—That would account for it—that there were extra levies raised in 1903. I may state that in 1903 there was a strike at one particular colliery known as the Great Western Colliery ; that continued for a considerable period, and levies were made in order to meet the strike pay in that particular colliery.

1780. (Sir William Lewis.) It was for about twelve months, was it not ?—It was for over twelve months.

1781. (Sir Godfrey Lushington.) In 1902 as compared with 1900, evidently there must have been a great increase of strikes because the amount of strike pay rises from £4,000 to £12,000 ?—That is so ; the number of strikes evidently increased in that period.

1782. Do you know what was the subject of these strikes, or of the majority of them ?—They would be strikes arising from disputes which very frequently take place at the collieries, and pending the settlement of those disputes, the men would be in receipt of strike pay.

1783. The general effect of this table is that there is a considerable increase in the number of strikes ; take the increase of strike pay from £12,000 in 1902 to £20,000 in 1903 ?—That is so.

1784. Although the Taff Vale Judgment can hardly have affected that, would not the judgment in *Quinn v*

Leathem have produced some effect in reducing the number of strikes ?—I do not think that *Quinn v. Leathem* would affect these cases, because the majority of them are strikes where the men have given their usual month's notice, and therefore there is no ground for complaint.

1785. Are you familiar with *Quinn v. Leathem* ?—Yes.

1786. Nothing turns upon notice in *Quinn v. Leathem*. The point to which I am coming is this : Do you consider that the judgment in *Quinn v. Leathem* has had any effect in reducing the number of strikes ?—I do not think so.

1787. You are solicitor to the Monmouthshire and South Wales Coal Owners' Association ?—Yes.

1788. That is a trade union, I suppose ?—Yes.

1789. Is it registered ?—No.

1790. May I ask what are your rules about helping each other ? Are they public or not ?—They are not public—they are not published.

1791. And you do not feel at liberty to communicate them to this Commission ?—I have no objection to communicate them if the Commission so desire.

1792. Of course, if you communicate them to us they become public property ?—I think upon former Commissions they have been put in. (*The Rules were subsequently sent in, and extracts therefrom are printed in the Appendices, pp. 80 and 81.*)

1793. Will you tell us what your rule is about owners helping each other at times of strikes ?—In case of strikes the owners have the right to call upon the members, where necessary, to provide funds to assist their fellow members—to make levies.

1794. (Sir William Lewis.) Depending upon their tonnage ?—Depending upon their tonnage.

1795. (Sir Godfrey Lushington.) Have you any arrangement that members refuse to employ those who are on strike against other members ? Supposing there is a strike in colliery A and B and the strikers go and seek employment at colliery M and N, would they be received ?—They would not be received if it was known that they were on strike at the colliery of a member of the Association.

1796. And do you take any steps that the fact shall be known ?—What is done generally is that intimation is sent to the other collieries to the effect that a strike exists at a particular colliery.

1797. And do you send any list of names ?—No.

1798. Do you object to do so, or have you not the means ?—They do not send any list at all ; they have the means of sending the list if they think proper, because they have a register containing the names of all men working at each colliery, but they never send the lists.

1799. Do you approve of black lists, or not ? Do you think they are legitimate ?—I do not think black lists are legitimate.

1800. Why not ? Is it wrong for one employer to notify to another employer that certain persons are on strike ? What is there wrong in it ?—I certainly am not in favour of an owner sending a list of names to another owner, telling him that these men are on strike.

1801. You do not think that there is harm in it ?—I say I am not in favour of doing it ; I do not think it is right.

1802. I want to know whether it ought to be prohibited by law ; that is the point ?—I think it ought to be prohibited by law.

1803. Will you state why ?—Because I do not think that merely because one man may be on strike at one particular colliery it is right that his name should be sent to another colliery so that the owner of that colliery may refuse to employ him.

1804-5. But you have not given me the reason ; you have only stated your opinion that you think it is not right. You would think it wrong, I suppose, to placard the list of men who are on strike ?—Yes, that is wrong.

1806. That would be holding them up to general contumely ?—That is so, and it is not permissible.

1807. But do you not see the difference between that and—to take the case of employers—one employer informing another that so and so is on strike, or has been very troublesome in his colliery?—I should say there was certainly no objection to one owner informing another that one of his workmen who had left him had been very troublesome.

1808. One or more or a hundred?—Yes. You have put it to me whether, if they had been troublesome at the colliery, I thought there would be any objection to the one employer informing the other of that, and I say certainly not.

1809. But the man who leads a strike is rather troublesome, I suppose? Has the person who makes the communication not a material interest in communicating it to the other employer?—Yes.

1810. And has not the employer to whom the communication is made also a material interest of his own in receiving that information?—Yes; it depends upon the circumstances, I think.

1811. Do you see anything wrong in the communication being made from the one to the other?—I think that would depend on the circumstances.

1812. A law which deals with the question of black lists, and which is also to depend upon the circumstances of the case, would be a very vague law, would it not?—It would be vague, I agree.

1813. In the case of workmen, or even in the case of employers, what means have they of knowing whether they would be acting within the law or not if it is to depend altogether on circumstances?—I cannot say.

1814. You see, therefore, the difficulty of legislating on the point?—I quite agree there is considerable difficulty in legislating upon the subject.

1815. Do you think it legitimate for unionists to strike against non-unionists?—With reference to that, I can only say that it is permissible at present.

1816. By "wrong" I mean legally wrong; do you think it should be legally wrong?—I think so, because it leads to very great hardship towards the non-unionists; they are put in very considerable difficulty.

1817. Do you think you would curtail the right of a workman to refuse to work with other workmen?—I certainly think there is no reason why one workman should refuse to work with another workman.

1818. It may be very unreasonable, but persons who act unreasonably do not necessarily commit an offence against the law?—No.

1819. I want to know whether you would make that unreasonable conduct a breach of the law?—I should.

1820. Do you consider that employers have a right to refuse to take into their employ persons who wish to be employed?—That would depend upon circumstances too, I think.

1821. Would you in any case consider it an offence in the employer to refuse to employ a man?—It is certainly not an offence now.

1822. Would you make it so?—No.

1823. Do you not see that if you are going to make it an offence for a workman under any circumstances to refuse to work with another man you are curtailing the right of that workman in refusing employment, and that being so, do you not see that there would be an inconsistency with that law if you continue to leave quite unrestricted the power of the employer to refuse to employ?—There is that difficulty, I admit, but I would point out this distinction, that the case of unionists refusing to work with non-unionists certainly brings about a very great hardship upon the non-unionist workmen, whereas I do not see that there is the same hardship brought about in the case of employers, because I have never known of a case where an employer has refused to receive a workman unless for some very good reason.

1824. (*Sir William Lewis.*) That is if he has employment for him?—Yes, if he has employment for him.

1825. (*Sir Godfrey Lushington.*) Surely an employer, if he thought it practicable, might say, "I refuse to employ any unionist"?—He might say so now.

1826. And in certain trades he might be able to carry it out?—Yes. *Mr. Charles Kenshole.*

1827. And in other trades, perhaps, if he does not carry it out, it is because he finds himself unable to do so?—Yes, but I have never known that to take place, speaking for the district from which I have come, because it has always been the practice at the South Wales collieries not to enquire at all as to whether a man may be a unionist or non-unionist, and we never make any distinction. 23 Nov. 1904.

1828. It comes to this, that in your view the action of employers in refusing to employ is generally reasonable, and the action of workmen in refusing to be employed is generally unreasonable?—I think that is so.

1829. Now, as to the question of a secondary or sympathetic strike, do you understand what I mean by that?—Yes.

1830. Do you consider that should be permitted or not permitted?—You mean coming out in sympathy with others?

1831. Yes. Supposing there were two collieries in a district and there was a strike in one, would you think it lawful to agitate for a strike in the other in support of the first?—I can only say with reference to that, that it is legitimate at present, and there is no objection to it—I mean provided they give the usual notice for termination of their contract.

1832. I think you told us that when there is a strike in certain collieries of your Association the other members of the Association would refuse to take on the strikers if they knew they were strikers?—Yes.

1833. Is not that exactly the same thing, only inverted, as a secondary strike of workmen?—Well, yes, it is.

1834. And therefore if one should be prohibited, it would be only fair that the other should be prohibited?—Yes. I think if both were prohibited there is really no objection.

1835. Now as to violence, you say that picketing always leads to violence?—I do not say always, but almost always.

1836. Do unions profess a policy of violence?—They do not profess it.

1837. Do you think they profess a policy of peace?—I think they profess a policy of peace; I have never known them to do otherwise.

1838. Have you ever known them in a case where one of their leaders has been guilty of violence or agitating for violence, denounce that man to the police?—I have not; no such case has come under my notice.

1839. Have you ever known a case in which they have defended that man before the magistrate?—I think in the case I have already referred to of the strike at Aberdare, where the prosecution was against the miners' leader, he was defended by the solicitors acting on behalf of the Miners' Federation, but I do not know whether it came out of the funds of the Federation or not.

1840. Have you ever known a case in which after their representative or workmen has been convicted and fined they have paid the fine?—I have not known of a case.

1841. Have you ever known of a case where a workman has been sent to prison, and the leaders of the local union have met him when he left prison and given him a triumphal reception?—I have known that; that was done in this particular case.

1842. Have you ever known of a case where a workman has been found guilty of violence and the trade union have punished that man as throwing discredit on the trade union by his misconduct?—I have not known of such case.

1843. (*Mr. Sidney Webb.*) To take first, picketing, I think you suggested that as things actually are picketing almost always leads to violence or to intimidation?—Yes, I say so, especially in large centres of industry.

1844. And yet picketing is permitted by the law at present, is it not?—Yes.

1845. You suggest there should be an alteration of the law on that subject?—I say with reference to picketing that is the effect of it, and I think there should be an alteration of the law with reference to it.

Mr. Charles
Kenshole.
23 Nov. 1904.

1846. And such an alteration of the law as would make picketing, at any rate of the nature you indicate, illegal ?—Yes.

1847. I notice that you give a table in your proof which states the amount of strike pay paid, and that that table shows that the strike pay has increased from £4,000 in 1900 to £20,000 in 1903 ?—Yes.

1848. You infer from that, do you not, that the number or the length of strikes has increased in 1903 compared with 1900 ?—That is so ; they vary very considerably.

1849. But there is no evidence of a decrease of strikes during 1903, on the contrary rather an increase ?—With reference to the amount, as I say, there was one particular colliery in 1903 which was on strike the whole year, and that would account for a considerable increase in the amount ; I do not think there were more strikes that year.

1850. At any rate you do not suggest there were fewer strikes ?—In 1903 I should say there were fewer strikes.

1851. That is contrary to what I understood had been the testimony ?—I pointed out the reason why in 1903 the amount was so large.

1852. Therefore the amount of strike pay is not really an index of the number or frequency of the strikes ?—Very frequently not.

1853. You told us that the strikes without notice, that is in breach of contract, have been greatly reduced in number since the Taff Vale decision ?—Very greatly.

1854. But the other strikes, what I may call for the moment legal and legitimate strikes not in breach of contract, have not suffered at any rate such a diminution ?—That is quite possible.

1855. You do not tell us that there has been any diminution ?—I do not suggest that there has been.

1856. Therefore, if we are seeking to inquire as to the effect of the recent decisions we may leave out of account all those decisions which have no reference to breach of contract ; there is no evidence that the decisions which have taken place, other than those relating to breach of contract, have had any influence as to the number or frequency of the strikes ?—I do not think they have.

1857. Therefore all the various decisions, other than those relating to breach of contract, have not, as far as your evidence goes, had any effect in increasing the number of strikes ?—No.

1858. Or in diminishing the number of strikes ?—I do not think they have in South Wales.

1859. I notice that all your evidence as to the effect of Sir Charles Dilke's Bill is with reference to its effect in the matter of breaches of contract ?—Yes.

1860. Would you have any objection to it if it were carefully limited to strikes in which there was no breach of contract ? I do not want a general answer, as it is not fair to put it in that way, but the objection you made to the terms of Sir Charles Dilke's Bill had reference to its possible effect in inducing breaches of contract ?—It certainly would have that effect.

1861. But that same objection would not apply if it were limited to cases in which there was no breach of contract ?—Well, as I say, that is a very general question, and I could not say without consideration.

1862. Have you within your knowledge any case in which the employers have sued the individual workmen for breach of contract in absenting themselves from work ?—Yes.

1863. It is the practice in South Wales to sue individual workmen for damages for breach of contract of that sort ?—Yes.

1864. And you are able to obtain damages proportionate to the breaches of contract ?—Yes.

1865. And in the aggregate by suing all the workmen you can get damages proportionate to the loss that those workmen in the aggregate have caused you ?—Yes, you may do so.

1866. And that has been done in the north of England, for instance, and I suppose in South Wales ?—It has.

1867. And as I understand you wish to retain a further remedy, namely, the remedy against the trade union funds as well as against the funds of the individual workmen ?—I do not know ; if we took proceedings against the individual workmen and recovered damages against them, we should not be entitled to sue in respect of the same damages against the trade union.

1868. But at any rate what you wish to preserve is the right as an alternative to proceed either against the Trade Union funds, or against the funds of the individual offenders ?—Yes.

1869. As a matter of fact damages have been recovered from individual workmen ?—Yes.

1870. And damages have been paid ?—Yes, in some cases.

1871. (*Sir William Lewis.*) But are there not great difficulties in obtaining the money especially where the man may cease working at the colliery and there is no money in the hands of the employer ? How are you to obtain the money in such a case ?—If there is no money in the hands of the employer, and as many of these men are single men, the only remedy would be to have them committed to prison, which would never do of course, as it would mean imprisoning a large number of men.

1872. (*Mr. Sidney Webb.*) Why would it never do ?—I mean to say that it would never do to go and imprison half of your workmen, because you would be simply depriving yourself of their services.

1873. But at any rate you have a power so effective that you refrain from using it ?—It would never do for them to use it.

1874. (*Sir Godfrey Lushington.*) It is rather a troublesome thing to bring 500 actions against 500 workmen ?—It is troublesome, and for this reason, that on the day when the cases would be heard all your pits would be idle, and you could not get any recompense for that.

1875. (*Sir William Lewis.*) You said in reply to Mr Webb that they might recover the amount of their loss, but in practice there is nothing of the kind, because on the day of the hearing of the cases the collieries are stopped ?—That is so.

1876. And as they are not stopped through the action of the workmen, consequently the employer cannot get any redress ?—There is no redress in respect of that stoppage.

1877. (*Mr. Sidney Webb.*) The damage caused by the men absenting themselves from work, of course, might be very great indeed in the case of a colliery ?—That is so very frequently.

1878. That damage, I suppose, is greater if the men absent themselves without notice than if they absent themselves after due notice ?—It is.

1879. And your evidence has been confined, I take it, entirely to the case of damage caused by the men absenting themselves without notice ?—Yes. In those cases proceedings are taken.

1880. Have you anything to suggest as to the damage which is caused, or the loss at any rate which is caused, by a strike taking place after due notice ?—In what way do you mean ?

1881. Expressions have been used as to the pits being laid idle by the action of the Trade Unions even after due notice ; when the men have given a month's notice in accordance with their contract they have laid the pits idle (it is said) by simply exercising their legal right and refusing to enter into a new contract ?—Yes.

1882. Have you any objection to make to that, or to the possibility of that ?—I cannot see that I can make any objection to it.

1883. You do not suggest any alteration of the law which would make it impossible for the men to withdraw their labour in that way ?—I could not suggest that ; if they give their proper notice I do not see how I can suggest it, because they are acting constitutionally in adopting that course, it appears to me.

1884. (*Mr. Cohen.*) There would be loss without any wrong ?—Yes.

1885. (*Mr. Sidney Webb.*) And similarly if someone advised all the men in the employment of a firm to absent themselves after due notice without breach of contract, you would not suggest that he should be liable for any damages?—He appears to me to be acting constitutionally and I could not suggest that he could be liable for damages.

1886. You do not suggest that any *dicta* or decisions which may seem to hold that he was acting illegally should be embodied in law?—No, I do not suggest that.

1887. (*Sir William Lewis.*) Could you give us, by reference to the Association's proceedings, the number of strikes since the establishment of the Federation in South Wales, say, since 1900, because it would appear by the tabular statement given in your proof that they have increased?—The number of strikes since the Federation was registered up to August, 1904, was sixty-eight, that is upon the unionist and non-unionist question.

1888. But have they increased or decreased since the termination of the Sliding Scale Committee, when the Federation was established in South Wales?—I am not in a position to say.

1889. But could you send it afterwards to the Secre-

tary?—I could do that. *Mr. Kenshole subsequently sent in the following statement:—*

STATEMENT GIVING PARTICULARS OF THE STRIKES WHICH HAVE TAKEN PLACE AT THE COLLIERIES OF THE OWNERS OF THE MONMOUTHSHIRE AND SOUTH WALES COAL OWNERS' ASSOCIATION FROM 1894 TO 1903.

YEAR.	TOTAL.
1894	12
1895	8
1896	10
1897	9
1898	General Strike for 5 months.
1899	23
1900	47
1901	43
1902	80
1903	54

1890. You referred to the Great Western strike which was a prolonged one; could you tell us how long that existed?—Fifteen months.

1891. And in the course of that there were several arbitrations which were not acted upon?—That is so.

Mr. GEORGE C. LOCKET called and examined.

1892. (*Chairman.*) You are vice-chairman of the Society of Coal Merchants in London?—Yes.

1893. And at the time of the dock strike in 1889 you were honorary secretary of the same society?—I was.

1894. And had necessarily a great deal to do with the labour difficulties which arose in connection with the trade owing to that strike?—Yes.

1895. What happened at that time?—In August, 1889, at the time of the dock strike, a certain number of men, comparatively few in number, who were employed in discharging coal steamers at the docks, decided to strike in sympathy with the dockers, and having done so, they proceeded to go round to all the coal depôts and wharves in that part of London to try and get the men to join them. They were more or less successful in the East End, but when they came to extend their operations to other parts of London they found much greater difficulty. In the north, west, and south, the men were strongly averse to going out; they had no grievances, they were extremely well paid, they were on very good terms with their employers, and they strongly objected to going out, and they did not go out until they were practically forced to do so. Of course you will understand that the coal trade in London is carried on at a very large number of centres, some of them very large depôts where a number of merchants have accommodation, and where in the aggregate a considerable number of men are employed.

1896. Is the coal trade of London partly sea-borne as well as railway borne?—Yes, that is so; by far the larger proportion is rail borne. There are a number of other smaller depôts where there are only two or three merchants, and in some two or three cases there are sole occupation depôts where only one merchant is in occupation. Of course it is quite possible to get the railway companies to close the gates of these depôts so as to prevent intruders coming in; it interferes with the work to some extent, but at the time of the strike they closed the gates. But the carmen when they go out have to run the gauntlet of the men who are stationed at the gates of the depôts for picketing purposes, and it was in consequence of that picketing that the strike practically spread to the whole of London. I took an active part in connection with the trade generally, and, of course, in connection with the men employed by my own firm, and I was assured by my own men over and over again in conversation that they had no wish to go out on strike, that their only anxiety was to continue at work, and that if I could assure them of adequate police protection they were quite willing to continue at work. They did continue at work I think longer than any other men in London, and on one occasion there was a large crowd of hooting and jeering men outside one of our principal depôts; we had some large orders to execute for the Government at that time, for the Houses of Parliament, and the Post Office, and it was absolutely necessary that

that coal should be got out. I went and saw the men and they said they were quite willing to go if I would go with them, and I said I was quite willing to go, for I was not going to ask them to do anything I was not prepared to do myself. I saw the inspector of police and told him what we were going to do, and we went out, and about a mile down the Hampstead Road we were followed by, I suppose, 2,000 or 3,000 shouting, hooting, jeering, and threatening men. That was what they had to undergo at that time and what finally led them to stop work. The same thing occurred at other times. I have mentioned in the *protès* of my evidence that as far as I am aware no actual violence occurred, but I have been looking at the evidence I gave before the Royal Commission on Labour in 1892, and I find that I am wrong there; there were several cases of actual violence, and in one case two of our own men were pulled off their vans, the traces were cut, the horses driven away, and the men badly beaten. There were other cases that occurred to men in the employment of others. The argument the men used to me always was, "It is all very well so long as you are here and so long as the police are about, but it is when our work is over and we have to go away to our homes singly; perhaps the men next door may be strikers and they may object to our having continued to work, and we are afraid of what may happen then." I do not think it is the higher officials of the union, such as the president and secretary, who are responsible for it. They generally have their hands full of organisation work, but it is the members of committees, the irresponsible individuals, whose conduct leads to these interferences.

1897. What is your view then as to the effect that would follow if by reason of the proposals in the Bills which you have seen (*Vide Appendices, pp. 7 and 8*), the operation of picketing was extended?—I think it would make it quite impossible for men who were anxious to work to remain at work.

1898. Would you be in favour of altering the law in the other direction as regards picketing? Would you make picketing altogether illegal?—No, I think it is a question for the police, and I do not think the law as it stands requires much alteration. I think it is a matter really for police organisation.

1899. Suppose the term "peaceful persuasion" is used, what is your view as to what peaceful persuasion is?—It is an extremely difficult term to define and I suppose *quot homines, tot sententia*, every man who was employed on picketing duty would put his own interpretation upon it. My own opinion is that there is no such thing as peaceful persuasion.

1900. Have you anything to say as to the proposal that the law should be altered in such a way as to make trade union funds unaffected by the action of their officials?—I can see no reason why a trade union should be treated any differently to every other corporation, registered or not; a limited company or a corporation is responsible for the acts of its officials.

Mr. George C. Locket.
23 Nov. 1904.

Mr. George
C. Locket.
23 Nov. 1904.

1901. Or an individual?—Or an individual, and I can see no reason why they should be put on a different plane to the rest of the community. One of my present partners had an instance of that, not at the time of the dock strike, but about eighteen months afterwards. There was a strike in connection with the Shipping Federation, and the Coal Porters' Union tried to stop the discharge of a steamer because the men were not members of the Seamen's and Firemen's Union. Two delegates of the Coal Porters' Union brought an action against my partner's foreman for libel, and my partner had to defend the action. The ground of the libel was that he had stated that their demands were simply for the purpose of putting money into their own pockets and not into the pockets of the men. The secretary of the Coal Porters' Union at that time took the two men to the office of Messrs. Rollit and Son, solicitors, and gave instructions for the action to be brought. The men themselves stated all through that they were compelled to bring the action, and that they had no wish to do so. The action was brought before Mr. Justice Day, and in giving his decision Mr. Justice Day said that he could not describe the action merely as a frivolous one, because it was very much worse, and it was dismissed with costs; but when my partner sought to recover the costs from the union they repudiated any responsibility whatever in the matter, and he had to pay the whole of the costs, about £150, because, of course, the two men who brought the action were mere men of straw, working coal porters, and they had no money out of which to pay the costs. They wrote very strongly on the subject themselves as to the way the union had behaved, and one of them described it as a mean and cowardly action.

1902. (Mr. Sidney Webb.) Just one question. This action that you describe towards the carmen during the Dock strike was, of course, not picketing; the following of the carmen down the Hampstead Road for a mile cannot under any stretch of imagination be brought under the head of picketing?—It did not happen at the same time; it was on the same day, but at a different time of the day and at a different place.

1903. What you are complaining of is not an abuse of picketing, but something quite different?—The assault on our carmen was done by pickets.

Mr. B. J. GREENWOOD called and examined.

Mr. B.
Greenwood
23 Nov. 1904

1912. (Chairman.) You are of the Loughborough Park Works, Brixton, and you are President of the National Federation of Building Trade Employers of Great Britain and Ireland?—I was President, but my term of office has now expired.

1913. You have been shown the Bills (*Vide Appendices, pp. 7 and 8*) in which certain proposals are made for an alteration of the law as between employers and workmen?—I have.

1914. And you have come here to tell us what your view is of the result if these Bills were passed into law?—That is so.

1915. We will take the subject as you divide it in your *précis* into three, and first of all what do you say as to the legalisation of peaceful picketing?—Picketing in my experience has always been more or less associated with intimidation, and is a direct injury to the employer by making it more difficult for him to carry on his business.

1916. And I suppose an injury to the workman who wishes to continue in employment and is not allowed to do so?—Yes.

1917. Do you consider that if the present restrictions upon picketing were relaxed to the extent of allowing peaceful persuasion by picketing, whatever that may mean, that would lead to more intimidation than there is at present?—I do.

1918. Would you go the length of saying that you think the law ought to prohibit picketing altogether?—Taking the case of workmen coming from a distance who might be unacquainted with the circumstances that exist at a particular works, I think there would be nothing

1904. But I understand the assault [on the carmen] was done in the Hampstead Road?—No, it was not at the same time or place; it was on the same day.

1905. At any rate, the turbulence you are complaining of is, as you afterwards suggested, a matter for the police, and you do not suggest that any alteration of the picketing law in itself would prevent that turbulence happening?—Well, I have not gone closely into that question as to whether any alteration of the law is desirable; I am simply here to give evidence as to facts which took place.

1906. Your interpretation of the fact is rather relevant, and I gathered at first that you were bringing that as an instance of the abuse of picketing?—Undoubtedly, it was an abuse of picketing.

1907. It was really a matter, as you afterwards suggested, for the police to have prevented?—Yes, but the police unfortunately at that time had their hands full and could not be everywhere; we could not blame the police.

1908. (Chairman.) But still, if I do not misunderstand you, what you have told us to-day is this: that from your experience in the past, picketing grows into other evils, that is to say, other evils follow close upon picketing?—Invariably.

1909. At present, of course, picketing is very strictly watched, so to speak, by the law, because watching, besetting and picketing is entirely illegal except for the purpose of granting information. Am I to understand from you that in your opinion, if there was a relaxation of the law and picketing was made more easy than it is at present, with a wider scope, the abuse would be also extended?—Certainly, I have no doubt about that.

1910. (Sir William Lewis.) Have you any experience, except in London? You are connected with some collieries in South Wales?—I have never taken any active part in connection with the South Wales collieries; I have been a director of certain collieries there, but that business was always left very strictly to Mr. William Thomas.

1911. (Mr. Sidney Webb.) I think you suggest that picketing should be made illegal simply?—I am not here to make any suggestion, but I strongly deprecate any alteration of the law making it more easy.

wrong in conveying the information to them, but anything beyond that must be detrimental, and that information as a rule is very easily accessible and is generally common knowledge.

1919. (Sir William Lewis.) Is it not generally accompanied with a threat at the end of it?—It is generally accompanied with a threat, but the mere giving of information would not prejudice anyone. That information is easily accessible and is generally common knowledge so that there is no necessity for a picket to be there in order to convey it.

1920. (Chairman.) What have you to say about the proposed protection of trade union funds?—If the trade unions, or any other organisation, can damage other people without the possibility of these damaged persons recovering compensation for the damage, it seems to me to introduce a very undesirable state of affairs.

1921. So that you would be against any alteration of the law as it is known in the Taff Vale case?—Certainly.

1922. As to the restriction of actions against those who interfere with business or contracts, have you anything to say?—Every citizen of this country, I suppose, at present has a right to legal redress for damage, and to give particular and peculiar immunity from legal action to these associations would, in my judgment, be detrimental to every thing and everybody.

1923. In other words if a thing is wrong in itself, in the sense of being illegal in itself, you do not think there is any reason for giving it a justification if it is done in the progress of a trade dispute?—Precisely so;

ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

NINETEENTH DAY.

Thursday, 24th November, 1904.

PRESENT.

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. W. F. WALLIS called and examined.

1924. (*Chairman.*) You are head of the Broadmead Works, Maidstone, and you are a member of the National Federation of Building Trade Employers' of Great Britain and Ireland?—Yes, and I am President of the Southern Counties Federation.

1925. How many men have you got in your employment?—At the present time something like 800 or 900; when we are busy we have sometimes 1,500 or 1,600.

1926. I think the two Bills (*Vide Appendices, pp. 7 and 8*) which were proposed during last session of Parliament by Sir Charles Dilke and Mr. Paulton were sent to you, with a view to your considering, as a practical man, what would be the effect if those Bills became law?—Yes.

1927. Would you just give me your opinion upon them. We may take them practically under three heads, and first of all, I would like to hear what you have got to say about picketing. In the Bills there is a proposal to allow what is called peaceful picketing: what is your view about that?—We object entirely to picketing by numbers of persons, and I cannot see myself that from any point of view it is necessary, because if the object is persuasion, persuasion can be equally well done by one as by a body of men. Immediately you legalise picketing by bodies of men—in the plural number—you bring other forces into play. You have the force of numbers, and when men get together, peaceful persuasion very speedily degenerates something which can hardly be called peaceful. The men will get together, and if their peaceful methods fail, all my experience shows that they speedily develop into something in the nature of jeering or hooting, or other methods which, perhaps, could hardly be construed as a breach of the peace, but which certainly have a coercive effect on more or less weak-minded men, or men who find themselves for the time being in a minority. The objects of pickets, I suppose, would be to tackle the men, more or less, singly, and try to bring the power of numbers to bear upon them.

1928. I think you have had in your own trade practical experience of picketing?—Slight; we have not had in our recent experiences any cases which have led to a breach of the peace. We had one case in Farnborough in 1896, where we had to apply to the police to keep a watch and see that no breach of the peace was brought about, but, generally speaking, we have been on fairly good terms with our men in the South. Unionism is not so strong there as in the North and other places, and what disputes have arisen have generally been settled fairly amicably.

1929. Are you satisfied with the law as it stands?—I think I may say I am quite satisfied with the law as it stands.

1930. But, as you have already said, you would be against any legalisation of picketing by numbers?—Yes, I do not suppose that picketing by one man would be construed as in any way an offence, that is to say, if one man was sent to meet other men leaving their work, I do not see how it could lead to any infringement of the rights of the subject in any way, but in all these Bills it is "person or persons," and that might mean from one to fifty.

1931. In fact, it is the number you look upon and not the avowed object?—The stand I make is this, that if

the object of the trade union is peaceful persuasion it can be done far better by one than by numbers, whereas if the overt idea is coercion then numbers come in and are invariably made use of.

Mr. W. F.
Wallis.
24 Nov. 1904.

1932. Have you anything to say upon the question of whether trade union funds ought to be liable for actions?—Most undoubtedly, it is my opinion that they should be. It is quite impossible to recover damages to any extent from any individual labouring man. If you sell him up the net proceeds generally are about £5. You may get an injunction for hundreds if you suffer damages, but to proceed against an individual man is a farce, and it gives no protection at all as far as the employer is concerned.

1933. (*Sir Godfrey Lushington.*) You say in the last paragraph of the *précis* of your evidence that trade unions should be liable for the actions of their servants in exactly the same way as any other corporation or association is liable: you are not a lawyer, I suppose?—No.

1934. Do you know the difference between "tort" and "contract"?—No, I could not give you a definition of either that would satisfy a legal mind.

1935. Now, if there is no contract, say, as between a club and persons outside, and nevertheless the club commits a nuisance, such as sending smoke into the windows of a house or something of that kind, that would be a case of tort, and not a case of contract; do you know of any action in which a club has been made liable?—I suppose if the club were the owners of premises on which a nuisance arose the club could be sued as well as anyone else.

1936. Can you refer me to a single case?—No.

1937. (*Mr. Sidney Webb.*) I gather that what you object to in the case of legalised picketing is the numbers and the accompaniments which numbers give rise to?—Yes, that is perfectly obvious; it always has been so and always will be, that numbers bring about a different set of actions from those of individuals; people act differently when in numbers than they do individually.

1938. It is not peaceful persuasion properly so called that you object to, but the method of doing it by large numbers?—That is so.

1939. Do you not think that those methods and malpractices which arise when large numbers of excited men gather together are matters for the police, and the police ought to restrain them?—Yes, but it seems to me that if those Bills were to come in force you would give a body of men a certain right which did not belong to ordinary bodies of men.

1940. In fact, you would suggest that you would give a body of men under these circumstances the right to commit a nuisance?—Yes, they would retort on the policemen, it seems to me, that they had the right to assemble together for the purpose of peacefully persuading; then the question would arise what was peacefully persuading, and then opinions would differ.

1941. It is, therefore, to the manner in which you foresee that they would in all probability exercise that right that you object?—Yes, and my foresight is based on experience.

Mr. WILLIAM SHEPHERD called and examined.

Mr. William 1942. (Chairman.) You are a builder in Bermondsey
Shepherd. New Road?—Yes.

24 Nov. 1904. 1943. You are the official representative of the National
Federation of Building Trade Employers' of Great Britain
and Ireland, and of the London Master Builders' Asso-
ciation?—That is so.

1944. You have been carrying on business in London
for thirty-six years?—Yes.

1945. And in your own business have had experience
of trade disputes?—Yes.

1946. You are on the Council of the Builders' Institute
and a Past-President, on the Council of the London Master
Builders' Association and Past-President, on the Council
of the National Federation of Master Builders' and
Kindred Trades of Great Britain and Ireland, and you
are a representative of the London Master Builders'
Association, and a member of the Councils and Executive
Committees of the Labour Protection Association, and
Employers' Parliamentary Council?—Yes. My associa-
tions with these offices have necessarily brought me into
active connection with all the disputes which have
occurred in the building industry and many other
industries over a long period.

1947. You have looked at the two Bills (*Vide Appen-
dices, pp. 7 and 8*) that were introduced last Session by
Sir Charles Dilke and Mr. Paulton respectively?—Yes.

1948. You have furnished us with a paper which re-
presents your matured views on the subject of picketing,
and your ideas as to what would happen if the law was
altered in the way that is proposed?—Yes. My state-
ment is as follows:—

With reference to the proposed legislation it must be
borne in mind that the laws as at present affecting picket-
ing are in relief of it taking it out of the operations of
the common law of the land and permitting molestation
of the individual and interference with his rights and
liberty under certain conditions, viz., where there happens
to be an alleged trade dispute.

The administration of these laws has been somewhat
diversified and unequal owing to the different interpre-
tation of their provisions by the executive and conflicting
decisions often given.

In many instances where the interests were not of
sufficient moment to induce the parties to seek to obtain
an authoritative decision they have been submitted to.
Recently some important cases have occurred justifying
the parties affected in testing their legality and ascer-
taining what the real responsibilities of the parties are
and fixing responsibility with this result, that the active
agents in illegal practices are endeavouring to obtain
by further legislation absolute immunity from all re-
sponsibility whatever in regard to their conduct and
actions and any results that may follow.

In my opinion, picketing for the purposes indicated in
Mr. Shackleton's Bill (No. 7) and Mr. Paulton's (No. 8),
Sub-section I, Clause 1 (*Vide Appendices, p. 7*), is
quite unnecessary as in these days of halfpenny morning,
evening, and weekly newspapers, the fullest publicity is
given to the subject matter of all trade disputes, and every
person who abstains from work, or strikes, or is locked
out, or seeks work, or obtains employment where a strike
or lock-out is in operation, knows fully and completely all
the circumstances and does not suffer from ignorance or
stand in need of any *visd voce* information whatever.
As to peaceful picketing it seems difficult to realise
intelligent men submitting any such suggestion to
other men of intelligence, possessed of common sense,
and capable of drawing a reasonable inference. Peaceful
picketing would be a completely useless waste of effort
and cover its authors with confusion and ridicule; and
the authors of the Bills should be asked to formulate
their definitions of what steps they consider they would
be permitted to take in peaceful picketing in a schedule
to the Bill. If the matter is put to this test the ludicrous-
ness of the proposal will be manifest.

As to Sub-section II, there may be more justification
for this, but it is quite clear peaceful persuasion would be
an absolute waste of time, as men would not venture on
the distasteful step of going to work where a strike or
lock-out existed without having seriously considered the
responsibility and consequences of so doing, and peaceful

persuasion would be useless in getting them to desist from
so doing or changing their determination. They would
be aware also, that if they did give way to persuasion
that would not be an end of the matter, as they would be
marked men always after. When men are induced to
break engagements entered into with employers under
such circumstances, it is from choice of evils and under
extreme pressure of circumstances, and not by peaceful
persuasion.

There has been recently an object lesson in peaceful
picketing in the Aston Strike, and reference is made to
the reports in the *Standard* and *Morning Leader* upon the
occurrence, and I feel sure it would be difficult, if not
impossible, to find any instance of a strike of duration
extending over more than a week or two unaccompanied
by scenes of violence and police court proceedings.

My experience is that in every strike and trade dispute
in which I have been concerned, I have had to obtain
police protection to the limited extent which is allowed
for my workmen who were desirous of working, and in the
absence of this they could not have continued their em-
ployment, but would have been effectually intimidated
and prevented from so doing. The disputes were seldom
questions of wages and hours of labour, though strikes
have taken place on these accounts and were eventually
settled by compromise.

One troublesome cause of dispute has been the question
of what is termed demarcation of work, and as I have
always stood out for my right to employ those I considered
the most suitable for the work, irrespective of the limita-
tions made by the various Trade Unions, I have had
serious trouble on several occasions, and my workmen
have been subjected to almost unbearable interruption
and annoyance and frequently personal violence.

The proposal in Clause I, to make it legal for any person
to intrude himself upon any other person without such
person's consent or desire, for the purpose of preventing
him from exercising his liberty of conduct and action
wherever he may be, in the public street or in the home,
in the presence of his wife and family or other relations and
friends, or possibly in a place of worship, needs only to be
considered calmly for a moment to convince right-minded
men of its outrageous character and determine them not
to entertain it under any circumstances.

Picketing can only be useful if it is intimidation and
coercion or bribery and corruption, and perhaps a com-
bination of both. In any other sense it is useless, and its
use may well be prohibited, and instead, if considered
necessary, the employer might be compelled, during trade
disputes, to exhibit in a conspicuous position on his
premises the cause and nature of any existing dispute
and any necessary information relating thereto.

My experience is that picketing seldom, if ever, has
achieved any useful or practical result, as no difference or
dispute that I remember has ever ended in unqualified
success to either of the parties, the issue being determined
by general considerations and principles of an economic
character; the settlement ultimately being effected by
negotiation and nearly always by way of compromise.
I think the same settlement owing to the economic con-
ditions would have been arranged by negotiating without
resorting to a strike, and much sooner.

The observations I wish to make on Clause 2 of this
Bill, and Clause 3, Bill 8, as also Clauses 1, 2, and 3, of
Sir Charles Dilke's Bills 55 and 91 (*Vide Appendices,
pp. 7 and 8*), is covered by my general observations on the
whole Bill, and they are that the purpose of the whole of
its provisions is to supersede all the recognised code of
moral and legal obligations of persons toward each other
and society in general in trade disputes, and that offences
against persons, their property, and social privileges shall
during such be committed with impunity, and the person
or persons suffering such shall have no redress, and if
allowed will establish by law neither more nor less than
legalized anarchy.

I personally am unable to make any distinction between
outrage against the individual, his person, property, or
possession during a trade dispute and under ordinary
circumstances, and am sure that no person acting law-
fully himself ought to have the protection he is lawfully
entitled to either withdrawn or suspended or left in doubt.

Another danger which would arise in the event of these
Bills becoming law would be in their administration,

Magistrates would have to decide what was peaceful picketing, and these decisions in many cases would be governed by sentiment, the magistrate probably electing first to go into the merits of the dispute and making himself really a partisan; and what one magistrate would consider a serious offence and punish severely another might regard as trivial and visit by a nominal fine, and nothing so much tends to bring the law into ill repute and discredit as a variable and uncertain administration. Further than this, trade disputes would be used as a cover for outrages with which they had no relation and nothing whatever to do.

Such an undefinable offence as a breach of peaceful picketing would be confusion worse confounded, worse than passive resistance and relief under the Vaccination Acts, and the result would be practically unlicensed or licensed anarchy.

Picketing has not in any way altered or changed in character or methods of operating since the Royal Commission appointed to inquire into the Organisation and Rules of Trade Unions and other Associations, reported in 1889 in the following terms:—

“So far as relates to members of the union promoting the strike, the pickets cannot be necessary if the members are voluntarily concurring therein; so far as relates to workmen who are not members of the union, picketing implies in principle an interference with their right to dispose of their labour as they think fit, and is, therefore, without justification; and so far as relates to the employer, it is a violation of his right of free resort to the labour market for the supply of such labour as he requires (par. 70).

“We have no hesitation in expressing our opinion that the abuses which have been proved to arise out of the practice of picketing ought to be carefully and uniformly repressed (par. 72).

“We are not prepared to propose new legislation on the subject of picketing, believing that the existing law is, at all events, equal to repressing flagrant abuses, and having no definite proposal to make as to rendering it more effectual” (par. 72).

The abuses referred to in the foregoing paragraph are continued to the present time, and this is undoubtedly due to the ambiguous character of Clause 7 of the Conspiracy Act of 38, 39 Vic. Cap. 36, which, except in the second paragraph of Sub-Section V, is a strongly repressive provision all through, but this qualifying provision has to a great extent nullified the protection intended to be afforded in the Clause.

There is no doubt that under cover of this, and possibly misunderstanding the intention of the framers, trades organizations have carried out their picketing in absolute disregard of the restrictions in the Clause generally, and if any legislation should result from the present inquiry, this paragraph of Clause 7 might usefully be repealed.

Its ambiguity and what has resulted from it is an illustration of the danger and inconvenience of imperfectly defined terms in an Act of Parliament which has to be administered by magistrates acting independently of each other and construed by different dispositioned minds.

It, at any rate, demonstrates the failure of an attempt to legislate for enabling peaceful picketing to be carried on. I am sure anyone who has had experience will confirm me when I say that it is under cover of this and misapprehension of its meaning that picketing has been carried on since the Act was passed, and that the scenes of violence and outrage have been enacted as well as the injury to employers' pecuniary interest inflicted, resulting in the actions for damages and compensation, for which the funds of the Trades Unionists have been held liable.

I suppose that it has not occurred to the promoters of the Bills that under Clause 1, Bills 7-8, there may be pickets of non-Unionists and pickets of employers exercising their rights at the same time as Trade Unionist pickets in the process of peaceful persuasion upon the same person or persons, and, if so, even with the most peaceful intentions, it is not difficult to anticipate the result which may be characterised as civil warfare, and I am sure the representatives of law and order will not regard this prospect without mixed emotions and anxiety.

I am reluctant to offer any suggestions for the more efficient dealing with trade disputes as I am doubtful of

the expediency and possibility of practically formulating legislative remedies. *Mr. William Shepherd.*

Some few years back, and even at present, the panacea for settling these was, and is, Conciliatory Boards, and in all the agreed rules between the London Master Builders' Association we have a conciliation rule, and great care and deliberation was bestowed in formulating a model rule resulting in the following:

CARPENTERS AND JOINERS, STONEMASONS, BRICKLAYERS,
AND MILL SAWYERS.

For the adjustment of all disputes and to avoid stoppage of work it is agreed that upon a difference arising between an employer, or upon the works of an employer, and any of his workmen from any cause whatever, notice shall be given by the Association or Society of the complaining party to the Association or society representing the other side, and the subject matter of dispute shall thereupon be referred to the Board of Conciliation, who shall be summoned within seven days, and, if practicable, shall give their decision within the next six working days, proceeding in the following manner:

For all purposes of the foregoing rules the Board of Conciliation shall consist of three members nominated by the employers and three by the workmen. Each party shall send to the other within one week from the date of signing these rules, and within one week from January 1 in each year, the names of six persons from whom three shall be selected to act as their representatives on the Board of Conciliation for the current year ending December 31, and in the event of the death or resignation of any member, either party shall appoint another member within one week, notice being given thereof. The number of representatives of the employers and of the workmen on the Conciliation Board shall always be equal, and shall be so maintained during the sitting.

The Board of Conciliation so constituted, if unable to agree, shall make application to the Board of Trade under the Conciliation Act, 1896, or apply for the appointment of a person to act as a conciliator. The Board of Conciliation shall have power to decide all questions arising between the employer and the workmen, including any questions between one trade and another as regards demarcation of labour or other matters, provided that for the decision of any question involving claims or rights of other sections of the building trades, a Joint Conciliation Board shall be constituted of the three representatives nominated by each trade involved, and by a similar number of representatives of the employers, so that members on the Joint Conciliation Board may be specially represented on such Board, and so that the number of representatives of the employers and the workmen on such Joint Conciliation Board shall be equal and be so maintained during the sitting. A Joint Conciliation Board shall have the like power as a Conciliation Board, and be regulated in the same manner. The Conciliation Board, or a Joint Conciliation Board, shall have power to make such rules and regulations for the transaction of business as they may approve. In the event of an application being made to the Board of Trade, or a person being appointed as conciliator, the decision of such person or the Conciliation Board shall be final and binding on both parties.

In some directions the rule works very well and points of difference are adjusted by it, but by its nature the operation is in a sense optional and the executives of the societies reason themselves out of its control whenever it suits their purposes on many various pretences.

The principle of compulsory arbitration has not been favoured except to a very limited extent by either employers or employed, and its advocates have usually been persons with little knowledge of the nature of the disputes and the views of the parties to the dispute and the difficulty that would arise in enforcing its decisions, because no one would tolerate the alternative of the punishment of any recalcitrants where the decisions were against them and which they refused to accept, and consequently compulsory arbitration may be left out of consideration altogether.

Mr. William
Shepherd.
24 Nov. 1904.

While the law remains as it is settled by the recent decisions the conduct of disputes by the responsible associations may be expected to be carried on with consideration and caution, and recent experience shows that where questions have arisen there has been a moderation and toleration in these matters not hitherto displayed, and I am inclined to think that if the opinion of the mass of the members of the societies could be ascertained, they are well pleased that it should be so.

The present agitation for further legislation is promoted by the more belligerent members, who usually get put on the executive and are men of extreme views, generally of a one-sided character and limited scope.

A great deal of outside sympathy has been evoked on the ground of the hardship inflicted by the ruling making the funds of the societies (which are for beneficial purposes as well as trades objects) liable for the misdeeds of the agents of the societies.

The remedy for this appears to me to be a very simple one. Let the funds created by the subscriptions for the various objects be separated and secured in trust inalienable from the purposes for which they are subscribed :—

Illness,
Death,
Widows and Orphans,
Old Age,
Out of Work, &c., &c., and Trades Purposes,

then I suppose the only fund which would be able to be used for fighting or liable for results from fighting would be the latter, and the other funds of a provident nature would remain intact and available for their legitimate purposes.

I should like just at this point to make this observation, that the building trade is carried on under somewhat exceptional circumstances. Our works are all over the place, and a very small proportion of works and employment is carried on within closed gates. Where the manufacturing part of our business is carried on we are in practical control of it, but in nearly every other instance there is little protection at all, and in country places that is particularly the case. I take the case of a gentleman who determines to build a mansion in a country place. Before I was in business for myself, when I was conducting building operations for a large firm, a new mansion was built down in Kent in the middle of a park which was open to access from all directions, and we had the experience of a strike there. There was a single policeman within about two miles of the place, and the nearest bench of magistrates was about seven miles off. Well now, if there was any sort of additional licence given to the men I consider that the difficulties of carrying on our business would be multiplied considerably.

1949. What it comes to is this, that from obvious considerations the building trade is one in which it would be much more difficult in many instances to afford police protection, and also, of course, you have not got the advantage of the protection which a closed yard in a railway depot, for instance, gives ?—Yes, and the putting up of men and sleeping and feeding them, as you see is done in other industries, is a matter of utter impossibility in the building trade.

1950. That is to say, the *pro tempore* putting of them up in order to protect them during the strike would be a practical impossibility in the building trade ?—Yes.

1951. Are you satisfied with the law as it is, or would you have picketing made illegal altogether ?—I think it could usefully be declared illegal. The alleged purposes and uses of it have become antiquated and out of date altogether ; it is absurd to suppose, as I have said in my statement, that there is any ignorance or any possibility of ignorance on the part of the persons engaged in the dispute.

1952. Owing to the publicity that is given by newspapers and such like ?—Owing to the publicity given by the Press, and if that publicity is not sufficient, I am quite sure that the employers in my business would not object to putting up a notice outside their premises setting out exactly what the reasons of the dispute are. However, we are not hopeful enough to suppose that there would be any relaxation of the present law. I have said in one paragraph of my statement : “ While the law

remains as it is settled by the recent decisions, the conduct of disputes by the responsible associations may be expected to be carried on with consideration and caution, and recent experience shows that where questions have arisen there has been a moderation and toleration in these matters not hitherto displayed, and I am inclined to think that if the opinion of the mass of the members of the societies could be ascertained, they are well pleased that it should be so.” I think that the most effectual control has been conferred by the decisions affecting the financial conditions of these societies. The bulk of the members who join the societies do it, not for trade purposes so much, but they do it with an all-round beneficent purpose to benefit themselves. You see I have enumerated some of the objects of these societies—five : “ Illness, Death, Widows and Orphans, Old Age, and Out of Work.” In the Operative Masons’ Society, the Out of Work is the most important thing, because if there is not work in one part of the country and there is found to be work in another, they pay the men’s expenses to go from one place to the other, and if a man meets with an accident and is disabled, he is entitled to a pension, and if he is any long period out of work he is assisted by an allowance. Now we have always found in dealing with these men that the masons have looked at a trade dispute in quite a different light from what the others do, and they have always been much more amenable to reason.

1953. You mean than the other workmen in the building trade ?—Yes, because they have had a due sense of the permanent benefits which they ran the risk of losing in the case of their funds being depleted.

1954. But why should that be so more to a mason than to a carpenter, for instance ?—I do not know why it should be. There is one thing, that the masons’ organisation is very much older than that of the carpenters’, and it was founded in the first instance, not for trade purposes, but for mutual benefit and assistance among the members themselves, and in the case of the carpenters, I believe the origin of it was simply for trade purposes.

1955. Of course, I do not suppose you would deny to any man the right not to work if he chooses ?—Certainly not.

1956. If one man thinks that under the present condition of the trade the class of operative of which he is one is not getting sufficient wages, you would not deny to him also the right of trying to persuade somebody else not to work ?—Combining for the purpose of increasing their wage ? I think that would be useless unless the economical conditions justified it.

1957. Whether it is useless or not depends on the eventual success of the operation. I am not asking whether it would be useful or useless, but as far as a man’s rights are concerned if you concede him the right to stop working when he chooses, you could scarcely deny him the right to urge somebody else to do the same thing, could you ?—No, I do not quite see how you could reasonably say that if he had the right himself he should not endeavour to persuade other people to do so.

1958. Does it not come to this, really, that your objection in practice is directed rather to the means used by the trade unions, than to the avowed object of the practice itself ?—I think so, but I do not think in pursuance of that object a person should be relieved from his ordinary obligations to civilised society, and should be allowed free licence, simply because he had that object in view. You might just as well pass an Act of Parliament legalising, under certain circumstances, boycotting in Ireland.

1959. (Sir Godfrey Lushington.) Your paper, I think, is addressed chiefly, if not exclusively, to the subject of picketing ?—Yes.

1960. You seem to say, or you actually say, that persuasion in the case of a strike never takes place and is inapplicable ?—Would you mind referring me to the passage ?

1961. You say :—“ As to peaceful picketing it seems difficult to realise intelligent men submitting any such suggestion to other men of intelligence, possessed of common sense, and capable of drawing a reasonable inference. Peaceful picketing would be a completely useless waste of effort and cover its authors with confusion and ridicule.” Do you not think that is rather

a strong expression? I suppose in the case of a strike there are two sides to the question, as in other cases, are there not?—Always.

1962. And, therefore, there might be matter for peaceful persuasion?—I have had a great deal of experience.

1963. Will you answer that question—there might be, and presumably there is, a case for peaceful persuasion?—I do not think that admits of an unqualified answer; I would certainly say yes or no to it, if possible.

1964. I should suggest to you that it does. What you mean to say it that practically there is no such thing as peaceful persuasion?—I have had no experience of peaceful picketing.

1965. Take a simple case of a strike about a reduction of wages: are there not two sides to that question? One man might say: "To stand out for the standard rate would be the best thing," and another man might say: "I do not like wages being lowered, but still it is better that we should accept the lower wages than have trouble about it, and a strike for some weeks or months." There are the two sides to that case, and to any other case that you can imagine?—Pardon me for saying that your observations illustrate exactly my point, that these people in their own minds decide it for themselves, and that a man once having made up his mind that he would rather submit to being deprived of a certain amount of his remuneration than face something worse, has made up his mind.

1966. Do you not know that there are plenty of cases in almost every strike where a man agrees to stand by his master, and then he is induced to go over to the other side, or *vice versa*, that a man has agreed to stand by the strikers and then goes in and takes service from the employer? I ask you, can you possibly argue that there is not room for peaceful persuasion about any matter in the world, not only a matter in connection with strikes?—Well, I have always given these men credit for a greater amount of intelligence than people generally do; they are not automatons, you know.

1967. What you mean is this, is it not, namely, that workmen do not try to peacefully persuade one another, and do not argue the pros and cons of the case, and that therefore, if the law were to authorise peaceful persuasion it would really authorise what is practically intimidation. Is not that your view?—My feeling is that when it comes to strikes and picketing that stage has been passed long enough—that all that happens before the strike takes place, and before the question becomes acute.

1968. There you refer to the magistrates, and you say that they take different views, and are apt to be governed by sentiment, and so on; have you had much experience of what is the practice in courts in strike cases?—We have reports of all cases brought before our council from time to time.

1969. Have you followed the exercise of the jurisdiction in the matter?—I think so.

1970. What is your view as to the conduct of magistrates in the course of strikes, speaking generally?—My view is that there is human nature on the Bench, the same as there is everywhere else, and that one man is affected differently than another by cases that are brought before him, but if it was possible for the laws to be so accurately defined that a man's sympathies and prejudices could not affect the question before him, well and good, but the laws are not so, and I have known several cases where there has been clearly an infraction of the law, and the magistrate (I cannot give you the case now) has gone into the whole matter and made himself a partizan. That ought not to arise; if a man has offended against the law he has offended against the law.

1971. There may be exceptional cases, but what is your opinion as to the general character of the administration of trade union law by the magistrates? Are you satisfied with it or not?—Yes.

1972. You are satisfied?—I think so.

1973. You speak of strikes with regard to the demarcation of work, and you say you have always stood out for your right to employ those whom you considered most suitable for the work, irrespective of the limitations made by the various trade unions?—Yes;

1974. You consider you have that right to say whether a man is suitable for your work or not, and to accept or reject him accordingly?—Yes. What I mean to illustrate there is, that the work of the various branches is not, and cannot be, limited by hard and fast lines, and if I may take up your time I will give you an illustration of it that happened in my own business about a dozen years ago. It was in the bricklaying trade. The bricklaying trade had become sub-divided, as it were, and there were the men who laid bricks and who were always employed in laying bricks, and there were men who did the pointing—I suppose you know what "pointing" is; it is the finishing off of brick work by putting in the joints, and leaving it finished. There were other men whose time was altogether occupied by what they called "cutting," that is shaping the bricks for arches and that sort of thing. This was a very large work and there were between 100 and 200 bricklayers employed upon it, and the time came to do the pointing. There were men who had been almost wholly occupied in pointing and had followed that branch of the business, and as we had a great deal of it to do we put these pointers on. There were certain numbers of those men who had never laid bricks; they had been brought up by their fathers as pointers, and they had never done anything else than pointing brickwork. The bricklayers objected to those men who had not been trained as bricklayers, or been accustomed to lay bricks, being engaged on pointing this work, but so far as I was concerned they did it better, they did it more economically, and I resisted the bricklayers imposing any such condition upon me. They then withdrew the whole of their men and I had to get non-society men from all over the country, wherever I could, and when they found they could not enforce their views upon me upon that particular work they did not hesitate to withdraw the whole of their men from all my works round about London. The result was that I maintained my position that I had the right to employ these men, and I did, and the Bricklayers' Association boycotted me for about three years. I could give you several illustrations of where serious trouble has arisen in consequence of the men abrogating to themselves the right to dictate to the employer what class of men he shall employ upon a certain class of work.

1975. I have no doubt of it, but what is your inference from that? Do you hold that to strike for a demarcation of trade is now illegal? Is that your view?—If those decisions which have recently been given had been given prior to that time I could have stopped the interference of the National Society of Operative Bricklayers in a very few weeks.

1976. By putting the law into operation?—Yes.

1977. Then you hold that the law now is that to strike for the demarcation of trade is illegal; is that your view?—I do not know whether it is illegal or not, but the societies are liable for the consequences of their action.

1978. They are only liable if they have committed a breach of the law, and the question which I ask you is, whether a strike for the demarcation of trade is a breach of the law?—I think it is; it is in restraint of trade.

1979. You think it ought to be?—I think so.

1980. From your point of view the attempt of the trade unions to demarcate the trades according to their wishes is unreasonable?—You can hardly put it in that way, because if I answered your question in the affirmative it might be said that I thought an employer ought to have the right to put carpenters to bricklayers' work, but there is always a medium in these things. I do not say demarcation of trades in my statement; I say demarcation of work, which is a totally different thing.

1981. Well, take the demarcation of work; you think the action of the trade unions is unreasonable?—I do not in every instance.

1982. And you think that your idea of work which does not follow the demarcation of trades or callings, is reasonable?—I think the employer who pays the wages has the right to apportion the work as he thinks right.

1983. And do you not think that the men who do the work are entitled to say whether they will be employed or not be employed to do that work?—It does not come in there; the interference of the men is to say that you shall not employ certain men upon certain work, and that is where the trouble comes in.

Mr. William
Shepherd
24 Nov. 1904.

Mr. William Shepherd.
24 Nov. 1904. 1984. Is not that the simple consequence? The only way they can effect their object is by themselves refusing to work and persuading others not to work?—Of course the trouble is gone now, but we had endless trouble with the bricklayers, because they wanted to put tiles upon the roofs, whereas there were persons who devoted their whole time to it.

1985. Does not every action of a trade union, every trade rule they make, to a certain degree circumscribe the freedom of action on the part of the employer?—It need not do so; if both parties were reasonable, of course it would not do so.

1986. If they insist upon having 30s. a week do they not, if they succeed, compel you to pay them 30s. against your will?—Not against my will; I was never averse to paying a man what he earned. If my principles prevailed, the able and competent men would get very different wages from the inferior and incompetent men, but trade unions say it shall not be so.

1987. I am not on the question of what is reasonable or unreasonable, but on the question of what is lawful or unlawful. Do you think that the same liberty which employers have to refuse to employ, should not be allowed to workmen to refuse to be employed?—Certainly, I admit that principle.

1988. And you admit the consequences of that principle?—Yes.

1989. Namely, that by refusing to be employed they necessarily impede your work, and if they are successful they prevent your doing the work in the way in which you would like to do it?—Well, yes.

1990. But then why should they be liable to pay damages for that? You said just now that you thought demarcation of trade was unlawful, and you thought it ought to be unlawful: how do you reconcile those two things?—I beg pardon.

1991. You said just now that you thought demarcation of trades was unlawful?—I ask you to come back to what my words were—demarcation of work—and not demarcation of trades.

1992. I am quite willing to accept demarcation of work. Supposing you wish to draw a distinction between demarcation of work and demarcation of trades, and you think the one reasonable and the other unreasonable, do you think the Courts of Law would go into what is a reasonable mode of conducting business or not? Is that the principle upon which they decide those cases?—That I cannot say; I am not sufficiently a lawyer to answer that question.

1993. Is not this the principle of deciding these cases, that the question is not what is reasonable or unreasonable, because any demand for wages, for instance, might be as unreasonable a thing as can be, and the whole point is whether the action of the parties has been within the law or beyond the law?—Quite so; I quite agree.

1994. Then why do you say that demarcation of work is illegal and ought to be illegal?—Have I said so?

1995. Certainly?—Would you mind pointing it out to me.

One or two of the previous questions and answers upon this point were read over to the Witness by the shorthand writer, and the Witness expressed his adherence to the answers.

1996. Supposing a trade union has a rule that none but bricklayers shall be allowed to point bricks, and supposing that the master refuses to agree to that and the trade union then organise a strike against him, do you consider that the action of the strikers is lawful or not lawful?—I do not think a strike is illegal in any sense; surely these men have the right to strike if they like, and all I contend for is, that they must conduct their strike within the law.

1997. But that is entirely a different question; I have not gone into that. Of course if they used violence or intimidation that would be a different matter?—You may take it from me that I do not question the legality of these men striking: how can I? You asked me several times whether I recognised their right to abstain from working and I said, Yes, and striking is abstaining from working.

1998. It comes to this, that all you wish to tell us is that a strike which is conducted with violence or intimidation is illegal?—Yes.

1999. (*Mr. Sidney Webb.*) Not to go over the ground, I really want to try if you can help us by a suggestion. I see you are a member of the London Master Builders' Association and the National Federation of Master Builders, and probably in that capacity you have entered into a number of working rules or agreements in different parts of the country with the local branches of trade unions and others?—Yes.

2000. Joint agreements, which cover not only wages but hours and a number of details that you have voluntarily agreed to with the other employers and the other workmen?—Yes.

2001. Have you found those rules to be useful in preventing misunderstanding?—They do not prevent the misunderstanding, but in many instances they obtain a reasonable consideration of what the points in dispute are.

2002. In so far as you have agreed to rules of that sort you would not seek to depart from them in your own case, I assume?—No.

2003. And to that extent, therefore, your individual freedom at the moment is bound by your prior engagement?—Yes.

2004. I only want to ask whether you have found that inconvenient in your business?—I do not think so.

2005. And it would be possible, would it not, to obtain some sort of sanction for those rules, if not by law, at any rate by, let us say, a deposit of funds or some other method of giving effect to the bargain?—I think so.

2006. There have been instances of that in other trades?—Yes.

2007. But at present you do not bargain with the trade union as such in any way, do you? It is really with the local men?—Oh no; if you look at page 4 of my statement, I have given you a print of a rule for the purpose of adjusting and obtaining a reasonable consideration of points in dispute?—Vide p. 133 ante.

2008. I see that; and, if I may say so, I think it a very good rule, but my point was a different one—that supposing you have made an agreement in one of these cases and the agreement is broken by the men, you are not able to obtain damages from the trade union concerned?—No. Perhaps you would not mind my interposing there, that when these rules were agreed we endeavoured to insert a penalty clause in the rule, and I am not sure that that would not have been admitted, but the difficulty was to agree upon the authority which should have the responsibility of saying whether the penalty was due or not.

2009. At any rate, you think that if there is any doubt as to the ability of the trade union to enter into a penalty clause it might be an advantage to have such power?—I think so.

2010. If the trade union is, or ought to be, liable for a breach of those agreements I assume that you would contemplate that the trade union should have some sort of authority over its members, otherwise it would be liable without being able to enforce the contract on its own members?—Yes, that appears only reasonable.

2011. Then just one other point; you suggest at the end of your statement that part of the difficulty might be got over by a separation of the trade union funds into their various objects?—The difficulty that was in my mind was the difficulty that exists in this sense, when these trade unions were mulcted in these heavy damages a great deal of sympathy outside was enlisted, because it was going to affect the beneficial objects of the Association, and if the fund was cut up and sub-divided in the way I have suggested here there would be no question of that in the future.

2012. Following out your suggestion, you would have one fund which might be allowed for trade purposes?—Yes.

2013. Would not that bring you to the position in which the trade unions were to a large extent some years ago before they had all these friendly benefits. You would then have a fighting fund by itself?—Yes.

2014. It has been suggested that that would lead to more disputes, and not to fewer disputes?—I do not think so; I do not mind the disputes a bit, and all that I contend for is, that in the first instance there should be a reasonable consideration of the dispute, and let that be ever so much perfected. I am not sanguine enough to suppose that strikes are going to be altogether averted, but if it comes to fighting, the fighting should be conducted in accordance with civilised methods at any rate, and I am confident that the present system of picketing is not conducive to that. There are a number of idle men who have considerable allowances as pickets, and what are they to do with themselves? They cannot walk up and down on sentry duty with pipes in their mouths all day long, and human nature is human nature; and they get into a public house and get a certain amount of drink in them and talk these matters over by themselves, and although they go out in the morning without the slightest idea of annoying or interfering unduly with other people, before night all that resolution is gone.

2015. Not to pursue that point for the moment, I merely want to ask you whether you think it would be possible to separate an out-of-work fund from a trade-purposes fund; in the case of the masons, for instance, when they give an allowance to a man out of work to go to another district, how would you be able to distinguish between that and supporting a strike?—I do not think you could; I have bracketed them together.

2016. I did not understand that you suggested that these two funds should be together?—I said "etc., etc."

2017. (Chairman.) I should like to be quite sure that you understood the full result of that last answer. You

(Mr. Shepherd was subsequently asked to supply copies of the Rules of his Association; he did so, and extracts therefrom are printed in the Appendices, p. 81.)

Mr. ALEXANDER G. WHITE called and examined.

2024. You are a member of the Lancashire, Cheshire, and North Wales Building Trades Employers' Federation, the head quarters of which are in Manchester?—Yes.

2025. They were communicated with by the Secretary to this Commission in order to have their opinion upon the various propositions, included in certain proposed Trade Disputes Bills (*Vide Appendices, pp. 7 and 8*), which have been presented to Parliament?—Yes.

2026. And they have sent to us through you a considered statement upon the subject?—Yes.

2027. You put that in?—Yes, it is as follows:

Hartley B. N. Mothersole, Esq.,
Secretary to the Royal Commission on Trade
Disputes and Trade Combinations,
Westminster,
London, S.W.

SIR,—In reply to your letter of the 5th of August last, I am directed by my Committee to forward for the consideration of your Commission the following opinions respecting the Trade Dispute Bills submitted by you.

The Bills submitted are four in number, but as the two introduced by Sir Charles Dilke are practically identical, they may be so treated for the purpose of this criticism.

PEACEFUL PICKETING.

The legalising of "peaceful picketing" is common to all the Bills, and is divided into two clauses:—

(1) For the purpose of peacefully obtaining or communicating information.

(2) For the purpose of peacefully persuading any person to work or abstain from working.

There is reason to believe that the former is legal under the existing law, whilst "peaceful persuasion" is also said to be legal if carried on elsewhere than on or in the public highway, so that legislation of the nature proposed does not seem to be necessary for the ostensible purposes of the Bills.

To legalise the "picketing" of works, places of business, or dwelling houses, for the purpose of "peaceful persuasion" would be to perpetuate a public nuisance, and as it would be impossible to confine such picketing to peaceful

have put in your statement: "Out of work etc., etc.," and by "etc., etc.," you have said to Mr. Webb that you mean maintaining a strike.—I have gone on to say "and trades purposes." Mr. William Shepherd.
24 Nov. 1904.

2018. I am afraid you are a little bit in confusion; just look at your paragraph again and see what it says; you say: "The remedy for this appears to me to be a very simple one. Let the funds created by the subscriptions for the various objects be separated and secured in trust inalienable from the purposes for which they are subscribed: Illness, death, widows and orphans, old age, out of work, etc., etc., and trades purposes"?—I meant those words "and trades purposes" to be a continuation of the last item.

2019. I am afraid that the way in which we all have read it, and which I think is the natural view of your words, was different?—I admit it is not quite clear, but that is my meaning.

2020. Your real meaning is that there are to be separate heads of which you have put down five, namely, illness, death, widows and orphans, old age, and out of work, and other trade purposes?—Yes.

2021. And that that last one alone is to be available for what you call fighting purposes?—That is it.

2022. Whereas all the others are to be ear-marked each by each?—Yes.

2023. That is to say, the illness fund is not to be available for a widow or an orphan, and the widow and orphans fund is not to be available for old age, or for death?—Yes, I think that fifth section should be altogether for trade purposes.

methods against individuals, it would give opportunities for detailed intimidation which could be done secretly and would be difficult, if not impossible, to prove.

This applies particularly to the building trades where men are constantly sent out of the shop to outside and distant jobs in small numbers and sometimes singly. These men are easily coerced and driven from work, and this is a hardship which no law-abiding artisan should be subjected to if it is his desire to remain peacefully at work and he has once intimated such desire to the union officials.

My committee are of opinion that trade unions might be allowed to promote, organise and conduct strikes, but only by communication with the workpeople as a whole, and should only be allowed to communicate with individuals desirous of working, under proper regulations to guard against abuse.

My committee desire to say that it is very difficult to supply concrete cases illustrating the foregoing statements. No attempt has been made in the past to record such cases, as employers' organisation on serious lines is of comparatively recent date, whilst individual employers who have felt the stress of trade union action have thought it best to put up with what they did not consider themselves in a position to prevent. The non-union men, too, who have been hardly dealt with are soon dispersed after a strike, and as a rule it is almost impossible to follow them up.

AMENDMENTS OF THE LAW OF CONSPIRACY.

This also is common to the whole of the Bills, and is of vital importance, as the alterations proposed in the Measures under notice would place in the hands of trade unions a power which might easily develop into absolute tyranny.

To quote the words of Mr. R. W. Wilkinson, President of the Manchester Incorporated Law Association:—

"This law as to combination, or conspiracy, as it is called, was not intended to assist the masters as against their workpeople. It is a general law applying to an endless variety of situations, and was based on a recognition of, and the need to put under reasonable restrictions, the immense injury which a combination could do to an individual, without doing

Mr. Alexander G. White.

24 Nov. 1904.

Mr. Alexander G. White.
24 Nov 1904.

anything otherwise illegal, and as against which the individual was unable to defend himself. This evil would exist as between a master and his workpeople as much as in any other situation, and there is not the slightest justification for suggestions that an employer of labour should, more than anyone else, be excluded from the very necessary and proper protection which the law of conspiracy provided. If you allow a considerable body of men, as much in a trade dispute as in anything else, to do as a body, and especially an organised body, as against an individual, all the things which one individual can do against another, you will be opening the gates to a system which would be subject to the gravest abuse, and would make life intolerable to an immense number of persons, including both employers and employed who were unable to fight single-handed against an organised conspiracy."

An individual is allowed to interfere with, or molest, another in his trade, either from a good motive or a bad or malicious motive, either by threatening or intimidating, or even successfully coercing that other person, or some third party to the person's detriment, subject to the solitary condition that the thing done or threatened must not, in itself, be illegal. To amend the law as proposed by the Bills would be to put a similar power into the hands of each and every one of the members of a union acting in concert, would remove the present safeguard that their action must be justified, and would enable them to maliciously follow and hound to destitution and worse, any man or men against whom they had a spite.

It is also difficult in this matter to give specific cases illustrative of the above, but it may be instanced that in the case of *Carr v. The National Amalgamated Society of House and Ship Painters and Decorators* given in Appendix I., (*Vide p. 130, post*), the plaintiff would have failed in his action had the law of conspiracy at that time been amended in accordance with the wishes of the promoters of the Trade Disputes Bills, and the employer, Carr, would have had no remedy as an individual, but would have had either to submit to the decision of the trade union officials or be driven from his means of livelihood.

PROTECTION OF TRADE FUNDS.

This also is common to all the Bills to some extent, but while in Mr. Shackleton's the object would only be indirectly effected, Clause III. of Mr. Paulton's directly provides for the exemption of the funds of a trade union from the recovery of damages sustained by any person or persons by reason of the action of a member or members of such a union.

Sir Charles Dilke's proposal goes further than this, and in Clause III. prohibits an action being brought against a trade union or against any person or persons representing the members of a trade union in his or their representative capacity, "for an act done in contemplation or furtherance of a trade dispute"—a monstrous proposal which would place in their hands almost unlimited power.

My Federation are of opinion that all organisations of operatives (and employers) and their funds should be, as the House of Lords has decided that they are, responsible for all acts of their officials and servants, whether actually authorised or not, which come within the reasonable scope of their employment. An individual, corporation, railway company or limited liability company is so liable for the acts of servants, and my members fail to see why the same law should not apply to trade combinations.

My committee repeatedly have before them cases where trades union officials act against individual employers in a high-handed and often illegal manner, and unless the funds of the trades societies to which such officials belong, and under the rules and directions of which they take action, are available for the recovery of damages and costs, the individual employers so molested have no sufficient remedy, as the majority of these officials themselves are men of straw and cannot be made to pay the damages to which their actions have made them liable. Employers belonging to trade combinations of their own can in such cases sometimes obtain redress by means of a "lock-out" of the members of the societies concerned, as was the case in the dispute quoted in Appendix No. 4 (*Vide p. 141, post*); but this is a remedy to which employers as a body are very unwilling to resort

except as a last resource, as it necessarily involves hardships to many who have no personal interest in the dispute. See Appendix No. 1 and No. 4 (*pp. 139 and 141, post*).

So far as the existing law, therefore, provides for the above, my Federation desire no change, but they find that in some cases attempts are made by trades unions to protect their funds against attachment for damages and costs cast against them, and they beg to quote the case of "*James Carr v. The National Amalgamated Society of House and Ship Painters and Decorators*," tried at the July Manchester Assizes, 1903. In this case Carr was awarded £322 damages and costs against the defendant society and for a long time it was thought that the society's funds could not be got at. Had this proved to be the case, Carr would have been practically ruined, as he is only in a small way of business, and it was only after great delay and anxiety to the plaintiff that damages and taxed costs were paid by the society. See Appendix No. 1 (*p. 139, post*).

My Federation, therefore, consider that if any alteration of the existing law is made it should be in the direction of preventing trade combinations from securing their funds against damages and costs being recovered from them, and clearly making all such funds, or at least a portion of them, available for that purpose. That is, there might be some justification for creating separate sick and provident funds and freeing these from responsibility, but the strike and general management funds and levies should be clearly made responsible as above stated.

My Federation would further point out in support of this contention, that as operatives' trades unions use their funds for the purpose of bringing actions against employers' organisations on behalf of their members, they should not at the same time ask to have the said funds exempted from responsibility to pay for their own illegal acts.

My Federation offer the two following cases as evidence that the trades unions (or some of them) do so use their funds:—

(1) In the year 1897 the Amalgamated Society of Carpenters and Joiners issued a writ against this federation (then known as the Lancashire Federation of Building Trades' Employers') for damages and an injunction for the alleged issuing of "black lists" in connection with a strike of their members at Blackburn. They failed to file particulars of the claim and the writ was dismissed with costs. See Appendix No. 2 (*p. 139, post*).

(2) Again in 1902 an operative joiner named Bulcock brought an action in the Blackpool County Court against the St. Annes-on-the-Sea Branch of this Federation for damages for procuring his dismissal from employment by a Bury firm during the joiners' strike at St. Annes and being unsuccessful took the case to the Court of Appeal, where it was dismissed with costs. In this case defendant's solicitors were informed that the plaintiff's union were paying the costs, as indeed must have been the case, plaintiff being a working man without means other than his weekly earnings. See Appendix No. 3 (*p. 139, post*).

RESTRICTION OF ACTIONS FOR INTERFERING WITH BUSINESS OF CONTRACTS.

This proposal is only found in Sir Charles Dilke's Bills, and my Federation contend that there is not the slightest ground for making any distinction between those acts of interference with business or contractual relations which are done in contemplation or furtherance of a trade dispute and similar acts done with a different object.

A contract, from its very nature, should be outside the interference of any third party, and this principle should not be relaxed to suit the wishes of any combination or body of men.

OBJECTIONABLE PRACTICES OF TRADE UNIONS.

My committee desire me to point out that the practices of trade unions to which they particularly object to are:—

(1) Forcing an employer to pay a fine to the union, or to pay the contributions to their society of non-union men whom they compel to join them, by

See Q. 2047.

threats to withdraw all their own members and sometimes the members of kindred societies. This is one of the commonest forms of trades union intimidation. See Appendix No. 5 (p. 141, *post*.)

(2) Striking an employer's shop or jobs to compel their fellow-workmen to join the union, or to compel the employer to discharge non-union men who have accidentally been taken on. See Appendix No. 4 and No. 6 (p. 141 *post*.)

(3) Undue interference with non-unionist workmen who are willing to work for employers whose shops are "blackened" by the union. See Appendix No. 1 (below).

(4) Interfering to prevent a third party trading with an employer whose shop is "blackened" by the union by threats to withdraw the said party's workmen or otherwise interfere with his business. See Appendix No. 1 (below) and No. 7 (p. 142 *post*.)

It is quite possible that for some of the above-named practices a criminal action might lie against the trades union officials concerned therein, but my Federation, believing as they do that such officials act at the direction of their society, or at any rate from a mistaken notion of their duties to their society under its rules, do not desire to proceed to such remedies where it can be avoided. They therefore urge again for the consideration of your Commission that it is desirable in the best interest of all concerned that the remedy should lie against the funds of the union, thus imposing the penalty on the right parties, and placing a check on the powers of such societies that otherwise, if allowed unlimited sway, would constitute a tyranny which no law-abiding subject of a free country should be called upon to put up with.

My Federation would further point out that labour organisations by a series of amalgamations of federations into national unions which were originally merely local trades societies, are now enabled to wield a far greater power than formerly, and their doings are, therefore, a greater matter of public concern than they used to be. The nationalisation of trades unions has led the employers' associations in self-defence to federate in a like manner. Trade wars between such bodies affect the general trade and commerce of the nation much more seriously than ever before (for instance, the struggle in the Engineering Trade in 1897), and it is a matter of great public interest that such organisations and their funds should be made fully responsible legally for the acts of their members and officials.

I append a few typical cases of the objectionable practices referred to, and they can readily be supplemented if required.

I am, Sir,
Yours faithfully,
JOHN TOMLISON.
(Secretary.)

THE FOLLOWING APPENDICES ACCOMPANIED THE
FOREGOING LETTER:—

APPENDIX No. 1.

*Extract from the "Labour Gazette" for August, 1903.
Damages against Trade Union.*

A foreman in the employ of a painter refused to join the union to which the greater number of the other men in the same employment belonged. The men alleged that the foreman was really a working foreman, not a managing foreman, as he often himself worked with the brush; and they objected to work with him unless he joined their Society.

The painter refused either to persuade his foreman to join the Society or to dismiss him, and in consequence the other men left their employment. In doing so they acted upon the advice of an official or "walking delegate" of the Society.

The Executive Committee of the Society, by resolution, gave authority for the men to be withdrawn. The bulk of the men left, after giving due notice, but a few men left their employment contrary to the terms of their contract of service.

After this the painter was in negotiation with a contractor with the view of obtaining a certain sub-contract for painting. The walking delegate, however, saw the contractor and told him that if he gave the painter the work the men would be called out. In consequence of this the painter did not obtain the sub-contract.

It was alleged that a similar thing happened in other cases; and that all the painter's various tenders were rejected when the parties were told that the men were liable to be called out.

The painter then brought an action for damages against the Society and the walking delegate, alleging that they had unlawfully induced workmen to break contracts with him; unlawfully induced persons not to enter into contracts with him; and conspired to injure him in his business. In answer to questions put to them by the judge, the jury found that the defendants did conspire to induce and procure, and did in fact induce and procure certain of the plaintiff's workmen to leave their employment; that they maliciously and with the intention of injuring the plaintiff induced a certain firm to refuse to accept plaintiff's tender for a contract; and that they did maliciously and in order to injure the plaintiff conspire to obstruct, and did in fact obstruct the plaintiff in carrying on his trade as painter. The jury further assessed the damages at £322, and judgment was given for the plaintiff for that amount.—*Carr v. National Amalgamated Society of House and Ship Painters and Decorators, Manchester Assizes, July 21st and 22nd, 1903.*

Mr. Alexander G. White.

24 Nov. 1904.

APPENDIX No. 2.

Extracts from the Minutes of a Meeting of the Lancashire Federation of Building Trades Employers held at the Castle Hotel, Preston, on November 10th, 1897.

A letter from Messrs. Sims & Syms, solicitors, Manchester, addressed to the Blackburn Association, was read, threatening an action for damages and an injunction in respect to circular issued by them whereby certain members of the Amalgamated Society of Joiners lost their employees.

A deputation from the Blackburn Association attended and explained the circumstance, and Mr. J. T. Parker. Longridge, moved, Mr. G. Tootell, Chorley, seconded, and it was resolved:—"That the Federation support the Blackburn Branch in defending the threatened action."

Mr. T. H. Kellett, Preston, moved, Mr. G. Tootell, Chorley, seconded, and it was resolved:—"That the President, Vice-President, Treasurer, and Secretary be appointed a Sub-Committee along with three members to be nominated by the Blackburn Branch to take all necessary steps in the matter."

JOHN TOMLISON (Secretary.)

To Mr. John Tomlison,
11, Cross Street, Preston.

DEAR SIR,—I have just received note from solicitor. He says he has succeeded in getting action dismissed with costs, though he says he has a small account on this job, but has not sent it. I suppose you are taking steps in this matter of getting names of men started since 1st August last. The men are pressing us very severely. They have got one away this afternoon at the station, after paying his fare from London. Your early attention in this matter will oblige.—Yours respectfully,

JOHN CATON.

APPENDIX No. 3.

Important Legal Decision—Appeal in the St. Anne's Case dismissed with costs—Federation Action upheld.

(Reprinted from "The Times" and the
"Master Builders' Associations Journal.")

*Masters' Associations and the Dismissal of Workmen—
Bulcock v. St. Annes' Master Builders' Federation.*

On 4th November, in the King's Bench Division, before the Lord Chief Justice, Mr. Justice Wills, and Mr. Justice Channell, the above case came on for argument. It was the plaintiff's appeal from a ruling of Judge Coventry, sitting in the Blackpool County Court, he having held that there was no evidence in support of plaintiff's claim, and having therefore allowed judgment for the defendants. The action was brought by Thomas Bulcock, a joiner, to

Mr. Alexander G. White.
24 Nov. 1904.

recover damages from the defendant Federation for having been, through their action, wrongfully dismissed from his employment. It appeared that Bulcock, who had formerly worked at Bury, went to St. Annes and obtained work in the first instance with Messrs. Moore, and afterwards with Hopwood & Sutcliffe, builders. The rate of pay in St. Annes was 8½d. an hour, but the employers gave notice to reduce the amount to 8d., acting through the defendant Federation, which is a branch of the National Federation of Building Trades' Employers. The men declined to accept the reduction, and then there took place what the masters called a strike but the men a lock-out, because the first aggressive step was taken by the masters. Afterwards the plaintiff obtained work with Thompson & Brierley, builders, of Bury, who had a contract on at Lytham, at the old rate of 8½d. an hour, and continued in that employment from July to September, 1901. Plaintiff's case was that the defendants, acting through their County Association, by means of a resolution, letters, and threatened enforcement of rules, brought pressure to bear upon Thompson & Brierley, with the result that they caused that firm to pay him up and discharge him. This, he said, was an actionable wrong, for which he could recover damages.

Mr. C. A. Russell, K.C., and Mr. F. H. Mellor appeared for the appellant; and Mr. Firth represented the respondents.

Mr. Russell pointed out that the plaintiff had acted as the secretary of the men in the course of the St. Annes' dispute, and in that capacity had had interviews with representatives of the masters. His case was that he thus became a marked man, and this was borne out by the fact that the action of the Federation was only directed to getting him and another man named Morris discharged by Brierley & Thompson, although that firm had five other men in their employment who also took part in the dispute at St. Annes. The correspondence, he said, showed that Brierley & Thompson acted reluctantly, and Mr. Thompson said that he was satisfied with Bulcock because he was a fast man, and they were evidently in difficulties for men.

The Lord Chief Justice pointed out that Mr. Thompson also said that if he had known that the plaintiff had been engaged in the St. Annes' strike he would not have employed him.

Mr. Russell said his contention was that the Federation had done an actionable wrong in using the means they did to secure this man's discharge. The St. Annes employers were justified in saying that they would not pay more than 8d. an hour, but they had no right to try to bind all the employers in Lancashire and Cheshire, and make an outcast of a man who had once taken part in a wages dispute. In effect, however, they said to the plaintiff, "You shall not get employment with any master builder in the district."

Mr. Justice Wills inquired whether, if a man wrote to another, and said, "Unless you get rid of your servant I won't have any dealings with you," that was an actionable wrong.

Mr. Russell said in his opinion it was.

Mr. Justice Wills said it was a most extraordinary doctrine, and it would interfere with what was being done every day by every trade society:

Mr. Russell said that might be so, but still he contended that it was an actionable wrong.

Mr. Justice Wills said he had excluded from his query the case of any breach of contract, but merely took the case where a man gave another man proper notice and got rid of him.

Mr. Russell said he was not relying upon any breach of contract, but he submitted that to interfere with a man in his labour in the way in which this Federation had done was an actionable wrong. If pressure were brought to bear upon employers in this way it rendered it impossible for a man to get employment at the rate of wages he was prepared to take and his employers to pay. The rights of a man could not, he argued, be interfered with unless some special justification was shown.

Mr. Justice Wills said that some of them thought that that was so in the case which went to the House of Lords, but he thought the House of Lords decided that where a defendant only went to the house of an employer and said, "If you continue to employ So-and-so your workmen will go out," that was not actionable.

Mr. Russell said the learned judge was referring to the case of *Allen v. Flood*, but that decision must be taken as restricted by a later case.

The Lord Chief Justice: Can you put the evidence higher here than the defendants said, "Two of the men working for you are men who have gone out at St. Annes."

Mr. Russell contended that the whole of the evidence showed that the action of the defendants amounted to more than that. In consequence of their action the plaintiff's employers came to the conclusion to discharge the plaintiff.

Mr. Justice Wills asked what was the difference in principle between that and that which was done every day. Was the learned counsel seriously going to argue that it was actionable to organise a strike?

Mr. Russell said they had had a good deal of new light on this subject lately, and it might be that people had been submitting to that which they ought not to have submitted to.

Mr. E. C. C. Firth, for the respondents, was not called upon.

The Lord Chief Justice, in giving judgment, said that he had come to the conclusion that the County Court judge was right. There was no evidence of any actionable wrong in respect of which he ought to have found for the plaintiff. Thompson & Brierley were members of certain trade associations which were affiliated to the Lancashire and Cheshire Federation, which had a rule that no member should employ a workman on strike from the workshop of another member. Apart from the personal position of Thompson & Brierley, it would not be disputed that some combinations between masters might be lawful that might get them into trouble and inconvenience if they did not obey the rules of their association. Thompson & Brierley dismissed the plaintiff, not in consequence of threats, though probably they had in their mind that to continue to employ him might get them into trouble. They, within their legal rights, did not continue to employ the plaintiff. The judge had found that there was no evidence of any act done with an intention to injure the plaintiff, and that there was no evidence of anything except acts by the defendants to further their own purposes. Mr. Russell did not base the case on any unlawful conduct of Thompson & Brierley in dismissing the plaintiff, and he said that he could not ask the Court to decide on the same grounds as those on which they gave judgment for the plaintiff in *Read v. The Friendly Society of Operative Stonemasons* (1902, 2 K.B., 88). But he said that apart from any allegation that the employer was induced to break a contract, if the purposes of the defendants or the means used to further them were unlawful and caused damage to the plaintiff, he could recover. That was true as a general principle, but to establish that he must come within the rules laid down in "*Quinn v. Leatham*." [His Lordship referred to Lord Macnaghten's judgment on p. 511.] If the plaintiff had given evidence that brought him within those considerations, the case would have been different; but he said that because the act of Thompson & Brierley was prompted by the names being sent to them in pursuance of the resolution, and they thereupon made up their minds that, rather than have trouble with the co-federated firms, they would no longer employ the plaintiff, that must be evidence on which the judge might come to the conclusion that there had been a breach of the law. His Lordship thought that it fell far short of it, and the judge came to a correct conclusion for correct reasons. It must be remembered, in considering the judge's reasons, that he was dealing with a case in which there had been no breach of contract by the employers.

Mr. Justice Wills concurred.

Mr. Justice Channel in concurring, said that he desired to decide no general question.

The appeal was accordingly dismissed. Leave to appeal was given.

84, Lune Street,
Preston.

1st December, 1903.

DEAR SIR—

Bulcock and St. Annes' Federation.

We have no proof that the Workmen's Association paid

the costs in this matter, except a conversation with Bulcock's solicitor, in which he said he was waiting for the cheque from the union before our costs were paid.

Yours truly,

RAWSTHORN, AMBLER & BOOTH.

Solicitors.

APPENDIX No. 4.

Extract from the Report of the Liverpool Master Builders' Association, 1902.

Joiners.

At the end of October, 1902, a strike of fifty joiners occurred at a job of Messrs. Alex. White & Sons, at Bootle, owing to the men alleging that there were two joiners employed who were non-unionists, but the society would not give the names of the non-unionists, and when the strike occurred there were not two men left on the job. The association immediately took the matter up, and on the 29th October ordered a lock-out to take place the following Saturday, November 1st, unless the trouble ended. This immediate and strong action by this association was the means of settling the matter, as the Joiners' Society immediately ordered the men back, and the way the matter was dealt with will no doubt prevent similar disputes in the future at other members' jobs, as the operatives will clearly see that the members of this Association are not going to tolerate strikes or threatened strikes on minor matters of this kind, which always cause great inconvenience to the employer, also to the proprietor of the job.

APPENDIX No. 5.

85 and 87, Crown Street,

Liverpool.

31st March, 1903.

DEAR SIR,—In reply to your favour of 25th March, 1903, I have enquired from our secretary, Mr. Moss, for a copy of the particulars which he possessed and had sent you, of the strike which took place in our shop in September, 1901, which we in Liverpool considered was a breach of the national agreement, and the abrogation of which we propose, as the operatives do not work to it, and we have no other means to bring them to book than proposing its abrogation.

I was forced to pay to the society at the time £5 7s. 3d. for Robert Hodge's fine, inflicted upon him by the N.A.O.P. I consider this amount should be refunded to me by the N.A.O.P., together with an apology for the breach of rules referred to.

In addition to the particulars given by Mr. Moss, I would add that the operatives had worked, without officially complaining, with the men they alleged to be defaulters, from the settlement in 1899 until 4th September, 1901, and that the time chosen was when I was engaged in reinstating Birkenhead Town Hall after a fire.

The employers held at the conference that under no circumstances were the local officials justified in sanctioning a strike until after the conference and other means provided under the settlement had proved abortive.

The operatives at the conference admitted that the local branch had sanctioned the strike, at some date not stated, between 4th September and 10th September.

After the conference, the operatives telephoned to Birkenhead Town Hall to tell the men working there not to come out as agreed upon that day. In this they were not successful, and the men brought their tools away.

The operatives, however, took steps to communicate with their members, and they returned to work next day.

Another reason we have why the agreement should be abrogated or amended is this, that when the above facts were brought before the London and County Federation, and passed on by them to the N.F.B.T. employers, and by them laid before the N.A.O.P., we were put off by the N.A.O.P. by the reply that they did not recognise the N.F.B.T. employers as the agreement had been made with the N.A. master builders; this point also requires definitely clearing up now;

If the N.A.O.P. definitely withdraw the plea, they should proceed to answer the complaints which have been long ago made but which they have pleaded the above excuse for not answering.

I enclose copy of receipt for £5 7s. 3d.

I have been forced to pay other amounts to the N.A.O.P. for what they term defaulters before;

Yours respectfully,

J. B. JOHNSON & Co.

Slaters and Plasterers.

Mr. Alexander G. White.

24 Nov. 1904.

Extract from the Minutes of a Meeting of the Preston Master Builders' Association held at the Castle Hotel, Preston, on Wednesday, 16th January, 1901.

The secretary reported the case of the operative bricklayers imposing a fine of £5 on a member for employing non-union men, and on the motion of Mr. John Cartmell, seconded by Mr. J. Croft, it was resolved:—"That Mr. Hothersall be asked to meet his committee to consider his case with the Operative Bricklayers' Society."

Mr. Hothersall was the employer referred to in the above, and the operatives' society refused to allow any of their members to work for him until the fine was paid. The case was never settled, as Mr. Hothersall shortly after this went out of business.

JOHN TOMLISON (*Secretary*).

APPENDIX No. 6.

The Builders' Association of Oldham and District.

16, Clegg Street,
Oldham.

18th December, 1903;

DEAR SIR,—

Re Royal Commission on Trades Disputes:

On 21st October we sent you particulars of a case of hardship against Mr. Frederick Kelly, to submit to the above Royal Commission, and this information was obtained from the Secretary of our local Master Plasterers' Association. Mr. Kelly being away at the time in America, the Secretary, we find, has not stated the facts correctly. We therefore beg to submit amended particulars, which kindly substitute for those already sent.

Mr. Fred Kelly, plasterer, of Union Street West, Oldham, during the plasterers' lock-out in 1899, had had non-union plasterers' labourers working for him. When the lock-out was over and the agreement with the National Association of Operative Plasterers was signed, it was understood that the men would go back to work along with the non-union men, if necessary. Before doing this, however, the *Plasterers' Society men* in this district insisted upon Mr. Kelly stopping non-union labourers as a condition of their returning to work for him. This he refused to do, as he did not consider it was fair or reasonable after the labourers had been working for him during the lock-out to discharge them. The *Plasterers' Society men*, therefore, in spite of any official agreement, declined to work for Mr. Kelly, and, moreover, his shop was "blackened" by the Society. The Secretary of the Master Plasterers' Society in Oldham states that the "blackening" of Mr. Kelly's shop has, however, just been removed, through bad trade probably.

The other case is that of Mr. Whitworth Whittaker, builder and contractor, Robin Hill Works, Oldham, in 1896 during the carrying out of the contract in connection with Messrs. Asa Lees & Co.'s Works, Oldham, one of Mr. Whittaker's foremen, in order to assist him in getting the work completed, commenced using a trowel and setting bricks. The workmen found that he was getting through considerably more work than they did, and consequently they complained to their trades union. They afterwards struck work, giving the reason that Mr. Whittaker's foreman was not a member of the same trades union, although doing their work, and refused to resume work until he became a member of their organisation. For the sake of peace he, after some considerable hesitation (during which time he was constantly communicated with by the trades union), eventually joined their organisation and also

Mr. Alexander G. White.
24 Nov. 1904.

paid a penalty for having set bricks without being a member of such union. The man is still in the employ of Mr. Whittaker, and has, for quietness' sake, continued his membership which at the time he was reluctantly compelled to undertake.

We trust these cases will meet with your requirements in connection with the above Commission.

Yours respectfully,

COWPER & DEAN, *Secretaries*.

The Lancashire and Cheshire Building Trades
Employers' Federation.

High Barnes Works,
General Graham Street,
Chester Road,
Sunderland.

25th December, 1903.

DEAR SIR,—Below I give you particulars of the masons' dispute at the beginning of the present year.

I had a man called Chalmers working at my yard, who had previously been a foreman and belonged to the Foremen's Society. The men came out on strike because he refused to join their society. After being out nearly three weeks they returned to work as they went out.

Yours truly,

J. W. WHITE, D.R.G.

Builder, Contractor, Road Maker and Drainer.

APPENDIX No. 7.

10th December, 1903.

DEAR SIR,—In the year 1897 the Stonemasons' Union withdrew all their men from the late Mr. Farbridge, Stoneyard, South Shields. The facts are as follows:—Mr. Farbridge had his tenders accepted by two builders for two jobs he had given them prices for. To his surprise the secretary of the Stonemasons' Union came to him and said it was against the rule—the rule they referred to being one for contracting labour only, and never meant for cases such as Mr. Farbridge's. However, the secretary verbally threatened to withdraw all the society men if he would not give the jobs up. Mr. Farbridge absolutely refused to do so, the result being that they did withdraw their men and the shop has been blacked ever since. Three weeks ago, however, a deputation from the operative stonemasons waited on Mr. Farbridge's son, who now carries on the business, asking him to re-open his shop to union men.—I am,

Yours sincerely,

J. G. ROBERTSON, *Secretary*,

Northern Counties Federation of Building
Trade Employers, South Shields Branch.

2028. I suppose that represents not only your own views, but the views of your Association?—That is so. I want also to put in a little additional matter which we think is germane to the question, and which I sent on by post to the Secretary this morning, but which I presume he has not yet had the opportunity of putting before you.

2029. I observe that it is really a concrete case bearing out the general statement in itself, and especially to emphasise the contention that there is no need to amend the present law, and also to show how easily peaceful persuasion may become intimidation?—Yes, it is the history of Carr's case which is quoted in our statement subsequent to the injunction having been obtained.

Cromwell Buildings,
Blackfriars Street,
Manchester.

22nd November, 1904.

Hartley B. N. Mothersole, Esq.,
Secretary to the Royal Commission on Trade Disputes,
London.

SIR,—I am requested by Mr. White who has consented to appear before your Commission on Thursday morning, the 24th inst., to forward you a copy of some supplementary evidence which he considers should be brought to the notice of your members as bearing on the great hardship employers have to put up with even under the exist-

ing law, when they are opposed individually by combinations of workmen; and the great difficulty and expense of securing efficient protection against such combinations although the employer may have proved their acts to be illegal. In the previous statement of this Federation you will find in Appendix I. (*vide p. 139 ante*) a report of the case of *Mr. James Carr v. The National Society of Operative Painters*, as the result of which plaintiff (Carr) obtained substantial damages and an injunction against the defendant society, and such injunction against other things, perpetually restrained Lowe, a delegate of the society from unlawfully or maliciously enticing, procuring or inducing workmen in Carr's service to break their contracts of service with him or to leave or continue away from his service. From the letters and extracts attached hereto and numbered 1 to 5 (*vide p. 143 post*) inclusive, it will be seen that the defendant's delegate Lowe has continued to persuade men to leave Carr's service in such a manner that in the opinion of Carr's solicitors it constitutes a breach of the injunction, but that the difficulty in proving "unlawful and malicious intent" together with the costs of the necessary steps and the uncertainty of the result, will prevent Mr. Carr, who is only in a small way of business and not yet recovered from the effects of the last action, from carrying the matter further as an individual employer, and he will have to depend now on the support of the Employers' Association to bring pressure to bear upon the defendant society, as for all practical purposes he can expect no protection from the law.

My Federation bring this case forward to emphasise the contention that there is no necessity to amend the present law in the interest of the trade unions, but rather that any legislation should be in the direction of codifying the existing law and simplifying the procedure, so that when an employer (or operative) has established his case he shall be certain of proper protection without having to go through a further costly and worrying action or having recourse to the old remedy of force, by means of bringing about a lock-out of the other employer's men.

I am also desired to forward you the copies of letters marked Nos. 6 and 7 hereto attached (*vide p. 143 post*), arising out of the above-named case which may serve to show how easily "peaceful persuasion" may become intimidation, and that to legalise the "picketing" of works, places of business or dwelling-houses for the purposes of peaceful persuasion would be to perpetuate a nuisance and legalise opportunity for intimidation of a serious nature in case of trade disputes, as pointed out in the former report of this Federation. I am,

Yours faithfully,

JOHN TOMLISON.
(*Secretary*.)

LETTERS AND EXTRACTS REFERRED TO IN THE
FOREGOING LETTER.

CARR v. THE NATIONAL SOCIETY OF OPERATIVE PAINTERS.

The trial of this case took place at the Manchester July Assizes, 1903, and resulted in a verdict for plaintiff with substantial damages and an injunction against the defendant society.

A copy of the injunction is attached and numbered 8 (*vide p. 144 post*). The verdict was given 22nd July, 1903, and entered 5th August, 1903.

Number 1.

Case reported by Mr. Carr.

In the last week of March, 1904, a man named Anderson, started to work for me as a painter and paper-hanger and worked satisfactorily for several weeks. He then met a fellow workman who asked him where he was working, and on being told Carr's, said he thought that a "Black" shop. Anderson said he did not know but would see his secretary. He did so, and was told there was no harm in working for Carr, and I understand that Anderson's case was considered by the local branch society to which he belonged and the members agreed to allow him to remain with me. Subsequently F. Lowe is stated to have called at the branch society referred to with instructions that Anderson's name must be erased from the books if he remained in my employment, and I believe the following sentence was emphasised, "Remember,

we don't tell you to leave the shop, but your name will be erased if you remain." On this being reported to me, I questioned Anderson in the presence of my foreman (Ross), and he stated that he has to leave me though he was very satisfied to remain, and it would take very little persuasion to make him do so, but that the future had to be considered. As a result Anderson left Carr on the 29th of April, 1904.

Number 2.

Case reported by Mr. Carr.

A man named Conner met me in Portland Street, asked me for a job which I gave him, and he continued working thereat until the 7th October, 1904, when he suddenly left telling my foreman that he had to—but adding significantly:—"I would not leave until I got it officially."

Number 3.

Case reported by Mr. Carr.

I received a letter given below from a friend asking me to give a man named Hudson a start as a special favour. I sent word for the man to commence work, but he did not turn up, and subsequently I received letter No. 2, below, which speaks for itself:

Letter 1.—28, St. Oswald Street, Collyhurst, Mr. Carr, Dear Sir, a friend of mine a painter has had the misfortune to come out of work through slackness, and as he is a good hand at his work, I should take it as a special favour if you could give him a start. Kindly let me know if you can do this for me. Yours truly, (signed) A. E. Morris. I might say that he has served Kendal, Milne & Co., and Waring & Gillows many years.

Yours,

September 25th, 1904. (Signed) ALBERT.

Letter 2.—28, St. Oswald Street, Collyhurst, Mr. Carr, Dear Sir, You must excuse me for not having written you before, but the delay, for which I apologise, has been caused through stress of business. That friend of mine, Hudson, whom you were going to start went to the club to book off, and they told him that he must not start if he wished to retain his membership, which I think is most unreasonable. I am seeing him to-night and will write you further.

Yours truly,

(Signed) ALBERT.

October 10th, 1904.

Number 4.

Case reported by Mr. Carr.

Copy of letter received by two men in the employ of Mr. Carr from the General Secretary of the Scottish Amalgamated Society of Operative Painters:—

Q. B. Muir, Thos. Barbour (Members, Paisley Branch).

DEAR SIRS,—I am in receipt of a communication saying that members of our Paisley branch are working in Carr's shop, Manchester, and that the said shop is a "Blackened" one. Are you aware that this is the case, and have you been informed that it is? I do not think it necessary to add any more.

Yours fraternally,

(Signed) A. GARDNER.

(General Secretary).

These men have not yet left Mr. Carr and will not do so unless compelled by the society.

Number 5.

Mr. Carr reported the case of Anderson (Number 1) to his solicitors, and in reply they sent him a letter of which the following is a copy:—

Hockin, Raby & Becton,
Solicitors.

6, Mount Street,
Albert Square,
Manchester.

11th May, 1904.

DEAR SIR,

Yourselves and Lowe.

In reply to your letters to us herein, we have carefully considered the matter upon the facts as stated by you. If what your workman, Anderson, says is true, we consider that there has been a decided breach of the injunction by Lowe. The injunction, as you will no doubt remember, was one which, amongst other things, perpetually restrained Lowe from unlawfully or maliciously enticing, procuring or

inducing workmen in your service to break their contracts of service with you or to leave or continue away from your service.

We consider that Lowe, in his present action, has induced Anderson to leave your service, and that therefore he has been guilty of a contempt of court in disobeying the injunction.

Of course it is a matter about which there may be some difficulty to prove the unlawful or malicious intent, or Lowe may have some defence arising out of facts unknown to you or to us, so that we cannot promise you that you will be successful if you take proceedings, but at the same time, as we said before, there appears on the face of it to be a decided breach of the injunction.

Yours truly,

(Signed) HOCKIN, RABY & BECKTON.

Mr. James Carr,
212, Waterloo Road,
Cheetham,
Manchester.

Number 6.

Letter showing intimidation by trade-union delegate.

3, Matthew Street,
Hulme,
Manchester.

27th January, 1903.

SIR,—This is to certify that I, Edmund Barrett, painter was discharged from Horsfield & Sons, from working for them through the influence of F. Lowe, walking delegate for the House and Ship Painters' Society, on Wednesday, 7th January, 1903. I went to start my work on this particular morning and was told by the foreman, Charlie Horsfield, that he had bad news for me, as the walking delegate had been down to the head of the firm and told them that if they did not sack me he would bring all the society men out and black the shop, saying the reason of it was because I worked at Carr's last back end. Moreover, previous to this, shortly before Christmas he, the walking delegate, had waited for me leaving the job on Gaythorn Bridge, and when I asked him about other men who were working for Horsfield on the same job that were not in the Society of Painters, he said "Oh! it does not matter about them, it is the men that worked at Carr's last year I'm after, and I shall find them out and do them wherever they go." I told him at the time he waited for me that I never knew that Carr's shop was "blackened," and when I asked him what it was "blackened" for he could not tell me, and I also told him that every man in the shop got the standard rate of wages, and that all the rules of the Society were adhered to, and when he got me stopped I was in most straitened circumstances, having a wife and four children to keep and no prospects of any more work all through the winter.

I remain, yours,

(Signed) E. BARRETT.

Number 7.

Letter showing intimidation by trade-union delegate.

8, Byron Street,
Longsight.

10th May, 1903.

Mr. Carr.

DEAR SIR,—I hope you will excuse me for troubling you, but I wish to put before you a few plain facts. When you had no work for me on 30th March, I went to Messrs. Waring & Gillow's and got a job. I worked that week all right. On the Tuesday, 7th April, Lowe, the painters, delegate, came on the job at Prestwich; he bullied me in front of the men I was working with, and said I would be fined £2 for working in your shop. He said the club intended to take all I earned in your shop and all other men as well. The other men can do as they like, but I don't pay any fine for getting a living for myself, wife and children.

On Thursday, 9th April, I was stopped at Waring's.

On Monday, April 29th, I was going down Market Street; Lowe met me, he bullied me and we had a row; so I told him I would leave the town before I would pay the fine. He said he would follow me. Well, I think I would not go for him. I am born and bred in Manchester and served my time, and if I cannot get a living here for myself and family we will have to starve, I suppose, just because I

Mr. Alexander G. White.

24 Nov. 1904.

Mr. Alexander G. White.
24 Nov. 1904.

worked for you to get a loaf of bread. Now, Mr. Carr, do you think this is right to be hunted like a convict from place to place. That is what Lowe will do. Well, this is what I meant to ask you—will you give me a character. It is eleven years since I started in your shop. I have never been stopped only for slackness of work, because I am working for Laidlaw & Higson, and Lowe will try and get me stopped. If he does I will put my case in the lawyer's hands and see if I can get to know if I can't get a living by working for it. I have thrown myself out of the club. I will not be bullied by them. I've done no harm and am not going to starve for all the clubs in the world. I hope you will excuse me for taking this liberty.

Yours, etc.,
(Signed) WILLIAM POWNALL.

Number 8.

Copy of Injunction. Verdict given, 22nd July, 1903.
Entered, 5th August, 1903.

THEREFORE IT IS ADJUDGED that the plaintiff recovers against the defendants £322 damages, an injunction perpetually restraining the defendant society, its members, representatives, and officers, and the defendant, Frank Lowe, and each of them and their or his servants and others acting by their or his authority, from unlawfully or maliciously enticing, procuring or inducing workmen in the service of the plaintiff to break their contracts of service with the plaintiff or to leave or continue away from the service of the plaintiff, and from unlawfully and maliciously inducing, procuring, coercing, intimidating or otherwise preventing workmen from entering into his service, and from unlawfully or maliciously inducing, procuring, coercing, intimidating or otherwise preventing A. R. Bullivant & Sons, Limited, or others, from entering into contracts with the plaintiff in the way of his trade of painter and decorator, and from unlawfully or maliciously combining or conspiring together or with others to entice, procure or induce workmen in the service of the plaintiff to break their contract of service with the plaintiff or to leave his service, or to continue away from his service, and from unlawfully and maliciously combining or conspiring together or with others to entice, procure or induce workmen not to enter into the service of plaintiff, and from unlawfully or maliciously combining or conspiring together or with others to induce or procure Messrs. A. R. Bullivant & Sons, Limited, or others, to refuse to enter into contracts with the plaintiff in the way of his trade as painter and decorator, and from unlawfully or maliciously combining or conspiring together or with others to prevent or obstruct the plaintiff from or in carrying on his said trade, and £ for his costs, which costs were by the District Registrar's Certificate, dated the day of , 1903, allowed at £ .

HOCKIN, RABY & BROOKTON,
Solicitors for the Plaintiff.

2030. (Sir Godfrey Lushington.) You represent here the Lancashire, Cheshire and North Wales Building Trades Employers' Federation?—Yes.

2031. That is a trade union, I suppose?—No, it is not a trade union; it is a federation of employers.

2032. But it is what the law would call a trade union of employers?—I do not know whether the law does not make a distinction; it is not, I understand, strictly speaking, a trade union, but I have not sufficient legal knowledge to say positively. We are under the impression ourselves that it is not, strictly speaking, a trade union.

2033. You have rules amongst yourselves as to what should be done in the case of a strike, have you not?—Yes, we have certain general rules. (The Rules were subsequently sent in, and extracts therefrom are printed in the Appendices, p.p. 82 and 83.)

2034. You send round the names of those who are on strike to the other employers?—We notify employers that there is a strike at a certain town, for instance, and we request them not to take on men who apply for work from that locality. We do not make any reference to any specific employee as a rule; it is only a general notice.

2035. Do you consider that black lists are legal or not legal?—I consider they are not legal; we do not issue any ourselves, on the ground that we should be committing an illegality. We are under that impression at all events.

2036. Your Association has been in the law courts on this point, has it not, in the case of Bulcock?—Yes, the Bulcock case is mentioned in my statement. (Vide p. 138, ante, col. 2.)

2037. In that case you did send a list of names round?—I do not know. You see it arises in this way. An employer, we will say, has taken men on without knowing where they came from; the men sometimes tell untruths, and if an employer asks them if they have come from Blackpool, where there may be a strike, the men may say, "No, we have not," or the employer may neglect to ask the question and the men may get on. The only time we should take any action against them would be if an employer whose works were struck came to us and said, "Some of my men are working for Messrs. So-and-so, at Such-and-such a town, and under the rule which we have, that no employer may take on men from another town where there is a strike, from any other employer whose men are out on strike, then we should say to this employer who had taken on these men, "You have got some men who have left the shop of Messrs. So-and-so, and we call upon you, under the rule, to discharge them. The employer might ask, "Who are they?" and we should then give the names, but not otherwise.*

2038. But practically, you do give black lists if it is necessary for your purposes?—Well, perhaps we are wrong, but we consider that a black list would be a list on which we should put the name of certain men and send it round to all the employers saying, "These men must not be employed under any circumstances." No lists are sent round unless there is a dispute in progress. We draw a distinction between what is permissible in a state of war and what is permissible at other times.

2039. You do not send them round gratuitously, if I may say so, but if it comes to a question of an employer wishing to know who are the men who are on strike you do give a black list?—We certainly would give names if required.

2040. Nothing turns on the name of black lists, but you do under certain circumstances supply the names of workmen with a view that they shall not be employed?—Yes, if they are on strike from another employer.

2041. I want to know what is the difference between that and the black lists of trade unions, or what they call lists of unfair firms, or lists of the employees of such firms. As I understand, you think the black list circulated by trade unions is illegal?—I do not know how trade unions circulate their black lists, but what I say is, that I think black lists altogether are illegal in the sense in which I understand black lists.

2042. And your way of sending the lists of men is not illegal?—We do not think so, because it is of this nature: suppose someone applies for the character of a servant, you are perfectly justified in giving your opinion of that servant, and it is in the same sense exactly, as I understand it, that we give the names of these men. We should not give the names of the men under ordinary circumstances at all, and we should simply say to the employer, "You have so many men from such and such a town where there is a strike on and you ought not to have them; send them away;" but if he says, "I cannot find them out: who are they?" we should be obliged to give the names.

2043. You think an employer is quite justified in asking as to the antecedents of a person he is going to take into his employ?—Certainly, in the ordinary way.

2044. Do you not also think that workmen are entitled to know the antecedents of the workmen with whom they are going to work?—In other words, their fellow servants?

2045. Their fellow servants?—I do not see what it has to do with the employer; they may take any steps they like to find out what sort of men they are to work with, but I do not see that it has anything to do with the employer.

2046. In this way, are they not entitled to say, "I refuse to work with A. B. and C. D.," and that at once affects the employer of A. B. and C. D.?—I have always understood that they had the right of saying so, that anyone has the right to say that they will not work in a certain employ—they have certainly used it.

* Mr. White subsequently wrote as follows:—"I have since ascertained that no names of workmen were sent. Our Secretary did not know Bulcock's name until after the action was commenced."

2047. You mention on page 4 of your statement (*Vide p. 138 ante, col. 2*), the objectionable practices of trade unions which practically are in various forms the modes of dealing with non-unionists?—Yes.

2048. You head it, "Objectionable Practices." Do you think these practices are illegal?—We think that some of them if they were fought might prove to be illegal, but we have not tried the law sufficiently to say. You see it is only quite recently that we have ever thought we had any remedy at all under the law.

2049. But you think they ought to be illegal?—I think it ought not to be possible for a trade union to use an employer to pull the chestnuts out of the fire for them; it is a practice they are extremely apt to indulge in, and I think they ought to go directly to get their own ends, to the parties they object to, and not take hold of the employer and say, "Unless you do so and so for us we will make things hot for you."

2050. But do you or do you not think that restrictions ought to be put upon the liberty or right of workmen to refuse to work with other workmen? Do you not see that that is involved? Can a trade union deal with a master directly and say "You shall pay £5 to the union as a fine"?—No, I do not think it ought for a moment.

2051. Can they do it?—They have done it.

2052. How can they enforce it?—They have frequently enforced it.

2053. How?—By striking his shop and making him unhappy.

2054. They can only force him by striking, and I want to know whether you wish to deprive them of the power of striking?—No, I do not wish that any more than I should wish to be deprived of the power of locking out.

2055. Then does not your argument fall to the ground?—I do not see that it does; I do not mind them striking us if they think they have grounds at all, but I object to these—what I would call—pettifogging attacks. We think they ought to go straightforwardly at us.

2056. It may be very unreasonable and very objectionable, but I ask again—do you wish to make it unlawful?—To strike?

2057. To carry out any of these practices. Do you not see that if you were to make it unlawful the only way you could do it is by a law putting a restriction upon the power of striking, because the only power which the workmen have of enforcing this fine on an employer is by striking?—I do not see that they ought to be allowed to strike an employer's shop to compel their fellow workmen to join the union.

2058. Do you consider that the law should put any restriction on the power of workmen to refuse to work?—I think any individual workman should have a perfect right to leave a shop if he is not satisfied.

2059. But 50 or 100 workmen?—I think that comes under another category; it would become then an organised attempt to strike, and I do not like to agree to that. I do not mind an individual workman doing what he likes; he is a free man, and if he does not like to work in a place he can go and leave it, but I object to a number of workmen putting their heads together and taking that step.

2060. You object to a concerted agreement to withhold labour?—Yes.

2061. And you wish the law to put restrictions upon it?—Yes.

2062. Does the law put restrictions upon it now, do you consider?—Only to a very limited extent, as has been shown by recent cases which are so new that we hardly know where we stand with regard to them.

2063. If I understand your position, you would allow a workman acting singly to refuse his labour, but you would not allow workmen to agree collectively to refuse their labour for one of these purposes, and *a fortiori* you would object to a trade union organising a strike or collective refusal of labour?—For one of the purposes mentioned there, certainly.

2064. You would have them all made illegal?—Or actionable, yes; perhaps you mean the same thing.

2065. If they are actionable they are illegal. Do you think an employer has the right to select his own workmen?—Yes.

2066. Do you think an employer has the right to refuse to employ any unionist?—Yes, but I do not think he ought to do so simply because he is a unionist.

2067. Do you think a federation of employers have the right to agree together not to employ unionists?—They undoubtedly, I should say, would have the right if they were at war with unionists, but it is not a right that is ever exercised.

2068. Why is it just that employers should have the right to combine not to employ unionists, while it is wrong for unionists to combine not to work for an employer?—What I mean is this—

2069. Please answer that question: Do you not think that the law should act equally upon both sides?—Yes, I think so, and I mean that I think both parties should have equal rights before the law.

2070. Can you justify the position which I have just stated in a question?—I am not sure that I quite appreciate your point of view. If employers and unionists are at war they naturally would agree not to have anything to do with one another while such was the case, and anything that would be done then in the way of not having anything to do with one another would, as I think, be quite right, but if employers and unionists are at peace I should not say then that an employer would be acting fairly or properly if he refused to have anything to do with unionists simply because they were unionists.

2071. But you can understand (and a great many employers have shown it by their action) that a unionist might be considered to be a source of trouble?—Yes.

2072. And would you, or would you not, think it lawful that an employer should determine, or that employers should agree, not to employ unionists?—I think that any individual employer who felt sore on the matter could say, "Well, I am not going to run the risk of having a unionist in my shop"; but as far as my Federation is concerned, if we were at peace with the union, and the union came to us and said that a certain member of our body was refusing to take members of their body on, we should tell that man that he should not act in that way.

2073. Perhaps you are reasonable people, but we are not on the question of what is reasonable or not; we are on the question of what is lawful or unlawful.

2074. (*Chairman.*) Might I put in another way what Sir Godfrey wants? Take the case of war, the weapon of the master or the combination of masters is to exclude the union man, is it not?—Yes, under these circumstances.

2075. Is not the weapon of the workman to exclude the non-union man?—In a state of war—yes.

2076. Can you suggest any difference in the legality of the two weapons?—Not in a state of war.

2077. (*Sir Godfrey Lushington.*) You speak at the close of your paper (*Vide p. 138 ante, col. 1*) about high-handed proceedings: "My committee repeatedly have before them cases where trades-union officials act against individual employers in a high-handed and often illegal manner." There is a very great difference, is there not, between high-handed actions and illegal actions?—Yes, I think there is a difference; a high-handed action may not be illegal, and yet it may be very unfair—it may be somewhat tyrannical.

2078. But you would not necessarily on that account treat it as illegal?—Not necessarily because it was high-handed.

2079. Does not that apply to those cases which you have mentioned at the foot of page 4 of your statement (*Vide p. 138 ante, col. 2*) for instance, calling on an employer to pay a fine; that is an exceedingly high-handed and unreasonable action, but should it be necessarily illegal?—Well, I really do not know whether it should be necessarily illegal or not. I do not think I am competent to answer that question, but I think in a general way that employers' organisations where they exist, are strong enough to stop it; where they do not exist, I do not think the individual employers are strong enough to stop it.

Mr. Alexander G. White.

24 Nov. 1904.

Mr. Alexander G. White.
24 Nov. 1904.

2080. Is there not the weapon in their hands that employers refuse to employ any unionists?—Yes, we threaten a lock-out.

2081. That brings them to reason?—Yes, but there are many places where the employers are not sufficiently combined to take that action, and there are individual cases of hardship.

2082. Yes, but that is not a reason why the law should declare the practice unlawful and render the unionists who follow that practice liable to actions at law?—That is a matter for the law to consider; I do not know that I am competent to express an opinion.

2083. The general effect of this paper of yours is that you do not want the law to be altered at all?—Just so; we consider it is on the whole fair.

2084. Are you familiar with the law?—Not as a legal man.

2085. If I were to ask you this question—has there been any criminal proceeding against unions for conspiracy since the act of 1875, except in a case where they have committed an offence punishable by imprisonment—could you answer it?—I do not know whether you would consider the Taff Vale decision a decision on the question of conspiracy or not.

2086. That is not a criminal case. Take the civil cases if you like; apparently you lay great stress on the power of putting in force the civil law with regard to conspiracy?—Yes.

2087. How many cases of civil actions for conspiracy against trade unions have taken place in the last hundred years, do you suppose?—It is impossible for me to answer that.

2088. Can you tell me one?—I do not think I am sufficient of a lawyer to deal with the point.

2089. You speak, in several parts of your paper, about threatening intimidation and coercion. You object, I suppose, to intimidation and to coercion?—We do, in certain forms.

2090. Here again, perhaps, you may be able to recognise the distinction between high-handed actions and unlawful actions. Take the case of intimidation, do you consider that giving notice of a strike is intimidation?—No.

2091. Are you aware that some noble Lords have expressed the opinion that it is?—No, I am not aware.

2092. Therefore, if you received notice of a strike, that all your men would leave you at the expiration of their notice, and probably that strike would cost you £10,000, you nevertheless would not think that the people who gave you the notice had committed a breach of the law?—We do not object to men giving notice and striking for a legitimate object, so long as they leave us alone afterwards. What we object to is their undue interference with third parties to prevent our filling their places, which could be easily done but for their interference and intimidation.

2093. You object to coercion. If your workmen give you notice that they will leave your employment, and they do leave it, you may be coerced into granting their terms?—Yes, I might be.

2094. Would you say that ought to be illegal? By "illegal" I mean actionable or punishable?—The mere fact that they had struck?

2095. The mere fact that you had been forced to alter the conduct of your own business: you do not think that should be illegal?—No, I do not see why it should be illegal; it is not, I think, as a matter of fact, illegal.

2096. Are you familiar with the case of *Quinn v. Leatham*?—No.

2097. (Mr. Sidney Webb.) Speaking as a business man, you suggest in the supplementary paper you have sent in that it would be very desirable to codify the law and get it into a clear statement?—Yes, the suggestion there made, I take it, is that when an action has been taken, such as Carr's case which has been referred to, once the verdict has been got, whichever party has won should be able to feel secured, and whichever party has lost should be able to know where they are, and admit it. For instance, if the law, among other things definitely stated that picketing was legal under certain well-defined conditions, and illegal under other well-defined conditions,

that lists of names could be issued for the information of either side during a trade dispute, but could not be issued when there was no dispute, for the purpose of maliciously following workmen or employers, that striking or locking-out was legal under certain well-defined conditions, such as to raise or lower wages, or to obtain better conditions of work, but not for the purpose of obtaining the discharge of non-union men, or to force men to leave a union, etc. This would be a codification of the law which, in my opinion, would simplify matters and save much expense.

2098. That relates to the enforcement of the law, but your Federation puts forward the suggestion that the existing law, whatever it is, should be codified in a definite form?—I am afraid I am not personally, responsible for that expression.

2099. But that is the view of your Federation?—That expression has been put in by my Federation, but I cannot tell you much about it myself.

2100. But you can testify that they think it would be very desirable to have the law codified?—Yes, if it would do any good in the way of clearing it up certainly.

2101. You have once or twice alluded to a state of war by which I quite understand what you mean, but you have rather indicated that certain practices are inevitable and even permissible in a state of war which are not justifiable in a state of peace?—To a certain extent, I would say so.

2102. And, therefore, would it be going too far to suggest that the law would have to make a distinction between a state of war and a state of peace, that some practices are objectionable in a state of peace which would be inevitable in a state of war?—I do not know whether the law could make such a distinction or not.

2103. You contemplate that there must be states of war?—At times, yes.

2104. Your vision has not gone to superseding private war in this matter by any other method?—Not entirely; only I would like to say that since recent decisions we have found a more diplomatic disposition prevailing on the part of the union societies, and there is a tendency at the present moment for the organisations to come together and endeavour to establish closer relations for the express purpose of preventing strikes.

2105. And those closer relations have taken the form, have they not, of collective agreements and working rules of one sort and another?—Yes, and Boards of Conciliation, having appeal from the Local Bodies to the County Federations.

2106. But the Boards of Conciliation have to apply the working rules or other collective agreements already made?—Yes.

2107. You approve of those collective agreements and working rules when they can be arrived at voluntarily?—Yes.

2108. You think they have done a great deal to avoid strikes and trouble?—A very great deal.

2109. And have you any difficulty in entering into agreements with the trade unions themselves on these points, or do you confine them to the members locally?—The agreements are usually made between local associations, but they are supervised by the central bodies on both sides.

2110. But as a matter of fact have you any right against the trade union itself, let us say the bricklayers' society or the stonemasons' society, when there is a breach on the men's side of one of those agreements?—Sometimes we have, and sometimes we have not. I would like to say that we have found this to be the case, that the trade union sometimes passes private regulations which have the effect of abrogating some of the rules which have been ostensibly entered into between them and the Employers' Federation, and we have cases where we have no remedy under those circumstances.

2111. But in any case, supposing a mere breach of a set of working rules by the men, you could not sue the trade union for damages?—I believe they have been sued occasionally, but generally speaking they are honourably observed, I am glad to say. We are advised that we have no ground of action to enforce our Trade Rules in Court, because there is no "consideration" as part of the agreement. It is different in the case of mills and collieries where the hours are regulated by law.

TWENTIETH DAY.

Tuesday, 29th November, 1904.

PRESENT.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B. (*in the Chair*).Sir WILLIAM THOMAS LEWIS, Bart.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. SAMUEL TAYLOR, Mr. ROBERT ALFRED KEARSEY, Mr. GEORGE LAVINGTON, representing the London Master Carmen and Cartage Contractors' Association, called and examined.

2112. (*Chairman—To Mr. Taylor.*) You have come here to represent the London Master Carmen and Cartage Contractors' Association?—That is so.

2113. Have you seen the various Bills which in the course of the last two years have been presented to Parliament?—We have had copies of them—just short copies. (*Vide Appendices, pp. 7 and 8.*)

2114. Taking the first point, that of picketing, do you object to the proposals that are made on that subject?—Yes, most assuredly; from our point of view we do not think it possible that there could be anything approaching peaceful picketing from the very nature of the thing.

2115. Picketing for the purpose of obtaining or communicating information is now permissible: how would you distinguish peaceful picketing from that?—We think that peaceful picketing would be, so far as we can see, very likely to lead on to dispute and to unpleasantness, to say the least of it.

2116. Yes, but I want to know how you would distinguish peaceful picketing from picketing for the purpose of obtaining or communicating information?—What we think is this, that in peaceful picketing they would have leave and licence, so to speak, to intercept the men; it would give them a stronger weapon, and under the guise of peaceful picketing they might go to all sorts of lengths if they were backed up.

2117. Why does that give them any further right than they have at present?—I consider it would, because if the men knew that they could picket, so to speak, by Act of Parliament—that is to say, that they would have legislation backing them up—it would be a very different matter. Now they have nothing of that kind, and if they assemble round our gates and attempt to coerce our men we can have them removed.

2118. I can understand your objection to picketing altogether, but I do not quite understand why you think that picketing for receiving or communicating information should be allowed, and peaceful picketing should be forbidden: are you aware that now picketing for the purpose of receiving and communicating information is allowed?—Well, we hardly knew that it was allowed; we knew the men do it, but I did not know it was legal at all. For instance, in my experience some years ago we had a strike on, and a lot of men congregated round our gate, perhaps twenty of them, and in that case they were an obstruction—we could scarcely get in and out of our gates; and moreover our own men, seeing these men at the gates, were so intimidated that they objected to go out with their teams in consequence; it is an intimidation to them when men are allowed to congregate round the gates where men are employed, and in that case I had to send to the police-station for assistance to have these men removed. What did they do? They removed away from the gate, it is true, but they just went to the top of the street, and as the men came out, of course they could do as they liked with them, because they were out of our jurisdiction and out of our reach. That is one of the strong points I should like to emphasise before the Commission—that our men are not confined to any particular spot in their work, but are scattered about all over London in units; we do not know where they are likely to go to, east, west, north and south; we are the distributors of goods, and of course all our men's work is outside. If

peaceful picketing were allowed, these men could intercept our men whenever they liked and anywhere; and it would be not only a danger to the men, but it would be a danger to our own property—to our goods. Our men are entrusted with valuable goods, and of course you can understand that if peaceful picketing were allowed, these pickets could intercept our men anywhere they liked, and they could say "We want to speak to you," and our men would be induced perhaps to leave their vans in some way or another.

2119. I understand you are opposed to picketing altogether?—Certainly, but we think that peaceful picketing would be infinitely worse than it is now, because it would give the men further leave and licence to carry on this picketing, which they have not got now.

2120. You say it would make a difference?—I do not say that they have a right to do it, but they do it, and I have always understood that the Union do it upon their own responsibility. I believe they have no right to picket.

2121. (*Sir William Lewis.*) Do you believe from your experience that picketing could be done peacefully? Does it not generally lead to threats, and from threats into violence?—Yes, that is what I feel. Might I just say that there are many of our men who are willing to work, and who would be glad to work, and they have no fault to find, men perhaps that we have had in our employment many years, and these men are coerced; they cannot go on with their work, and are afraid to do so, and it seems to me that it is unjust altogether that these men should have such power that they can coerce men who are willing to work, and make them afraid, and intimidate them from going on with their work under the guise of peaceful picketing.

2122. (*Chairman.*) Are you aware of this provision in the existing Act (*Vide The Company and Protection of Property Act, 1875, c. 7*): "Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house, or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section"?—Yes, but I would like to call your attention to this, that it makes all the difference how they go about this sort of thing; if one or two men were to come and want to communicate with my men or anybody's men, that might be done in a peaceful way, but I do not think it would, because I think it would lead to serious results. At the same time, where 10, 15, or 20 men congregate together, I think it must be seen that these men become a menace directly.

2123. What I understand from you is that you would not object to peaceful persuasion in the abstract, but what is called peaceful picketing is a different question?—Yes.

2124. (*Sir William Lewis.*) Is it not common knowledge when you have strikes through the district where your operations are carried on, so that there is no necessity for informing your particular workmen that you have any difficulties at all?—You mean to say where there are strikes with other people?

2125. Yes?—We do sometimes when it is in connection with our own business; if, for instance, there is a strike among the wharfingers, they then try to prevent our men going out to obtain goods from the wharves, and that would

Mr. Samuel Taylor, Mr. Robert Alfred Kearsy, Mr. George Lavington.

29 Nov. 4904.

Mr. Samuel Taylor, Mr. Robert Alfred Kearsley, Mr. George Lavington. affect us ; and the same thing applies when there is a strike among the lightermen ; anything that is in connection with our own business they would try to prevent our men going out to obtain goods where there was a strike on, and that is a very serious matter for us.

2126. (*Chairman.*) Will you tell me what is the constitution of your Association ?—We are a registered Association.

2127. Is there more than one trade comprised in your Association ?—No, only the carrying trade.

2128. Have you any arrangement to meet the case of a strike against one of your members ?—We meet together and consult.

2129. And do you help the one that is struck against ?—Yes, that is to say supposing one of our members is unable to get his teams out, it not only affects the men but our occupation as well.

2130. What do you do ?—We have to do the best we can ; we have to feed them ourselves almost, but we should help one another, as I was going to explain. Supposing one of our members has a strike on at his yard, that man cannot get any of his teams out, and the consequence is that he cannot supply his customers, and in that case those of us who are free, so to speak, would lend him some teams in order to keep his business together.

2131. And if the men on strike at one place came to you, another firm, for employment, would you give them employment ?—As a rule we do not take any notice of whether a man is a Union man or not.

2132. No, but when there is a strike on ?—No, I do not think we should if we knew of it.

2133. Do you supply each other with the names of those on strike ?—No, we have not done so ; we have decidedly set our face against recognising the Union in any way, but we have made no difference between the Union man and the non-Union man, and we have treated them all alike. I may say that we are always ready, if our men have any grievances to lay before us, or any reasonable complaint to make, to meet them, and I do not think any of our men would say that that has not been the case.

2134. You assist one of your brethren suffering from a strike. What do you say to the case where there is a strike against one employer and that employer is assisted by another employer ; would you say the Trade Union was justified in striking against the assisting employer ?—I think that would be decidedly interfering with our liberty.

2135. You do not see any objection to that, do you ?—Yes, I do not think they ought to have that power.

2136. Why are you allowed to assist your brother employers while they are not allowed to assist their brother employees ?—I think if you look into it you will see it is a very important matter. Supposing I have got 60 or 90 or perhaps a 100 customers on my books, we are interfering with the legitimate course of business to a large extent. I have got to keep my people supplied with teams that they require day by day for the delivery of their goods, and therefore you can quite see that we are most anxious to keep our people supplied and not to inconvenience them.

2137. I do not think you need labour the point that a strike or lock-out is a great inconvenience and loss. You think the master is justified in assisting a brother master in distress, but that the workmen on strike against one firm are not justified in striking against another although it assists the first ?—I would not like to go so far as that, but I do say it is an enormous inconvenience and it is placing an enormous power in their hands.

2138. (*Sir William Lewis.*) Do you think it is a parallel case ?—I do not think it is quite a parallel case.

2139. (*Chairman.*) Have you anything further you would like to say on this subject of peaceful picketing ?—Not more than this, that we have a very strong objection to it and we can see that there are great evils that may arise out of it. We can see that what may commence as peaceful picketing may end up in very serious consequences and may become intimidation.

2140. And generally will, as I understand you ?—And generally will, I quite think that. (*Mr. Kearsley.*) May I, before you leave the point of peaceful picketing, just give one or two examples of my experience in a

strike. My men did not strike, but in certain cases in connection with certain work we had to do men would come to me and say that they were afraid to go, and in many instances I, personally, and my partner had to go with the men. Our men were so intimidated by the men outside that they were afraid to go, and in one or two other instances I had vans that were left in the street and had to be taken charge of by the police, because the picket had persuaded these men, or threatened them of the consequences, and consequently a man would leave his van sooner than face personal violence.

2141. Of course that might happen, whether peaceful picketing is allowed or not ?—I am just giving you an example of what peaceful picketing is likely to do in case of a strike from what has actually happened.

2142. Forgive me, how could that come from peaceful picketing ? Peaceful picketing is not allowed now ?—My idea is that there is no such thing as peaceful picketing in the time of strikes. You see, sir, the nature of carmen themselves is that they are rather of a violent temper, they are not educated men, and their form of argument even amongst themselves in their calmer moments is perhaps rather of a more violent character than is recognised among ordinary men of business.

2143. You have never heard of a carman, I suppose, quietly sitting down and over his pipe discussing the pros and cons of a strike and whether workmen should remain in whilst a strike was going on ? Have you never heard of a case like that ?—I should not like to say there are no such cases, but when a strike actually takes place the men in and the men out are so opposed to one another that I am afraid there would be no chance, and there would be a blow before a word ; in fact I am sure of it.

2144. (*Mr. Cohen.*) Your great objection to picketing seems to be that it intimidates, or tends to intimidate, and, over and above that, is a public nuisance ?—Yes, it actually does intimidate. (*Mr. Taylor.*) As I have already explained, the nature of our business is quite different from that of persons who are employing their men in a certain building on the spot.

2145. Yes, but we cannot legislate to meet the requirements of a particular business ; we must lay down a general principle ?—I think you will see how difficult it is to draw the line, and that under the guise of peaceful picketing a man could do many things, and it is very difficult to prove against him whether he has overstepped the mark or not, and to put a weapon into the hands of a man like that seems to me to be most unreasonable and most unjust, in fact it would amount almost to tyranny.

2146. (*Mr. Sidney Webb.*) You have used the word "intimidate" more than once ; do you mean by that a threat of personal violence ?—Yes, I mean that and further, because there are different degrees ; the very fact of knowing that there is a strike and seeing a lot of men hanging about who may interfere with you, certainly resolves itself into an intimidation although they do not say so.

2147. Then you include in intimidation something more than the threat of personal violence ?—Yes.

2148. For instance, the threat of other disagreeable consequences which are quite apart from personal violence ?—Quite so.

2149. And when you have used the word "intimidate" you have not discriminated, I think, between the threat of personal violence, that is to say, a blow and threats that something else unpleasant would happen to the man, which was not personal violence ?—There are various kinds of intimidation ; a man may be intimidated as you say, in a quiet way, and he may be intimidated in a very violent fashion, but it is all intimidation.

2150. When you have used the word "intimidation" you have included in your mind all those kinds of intimidation ?—Quite so.

2151. Do you think all those kinds of intimidation are prohibited by law at present ?—Yes, I think they are, but the difficulty is to get at it.

2152. Let us follow it out. If, for instance, a picket were to mention quite quietly and peacefully to one of your men that if he did not come out he would not be admitted to the union, and the other men would refuse to work with him?—I think it is very likely they might say that.

2153. That would be intimidation from your point of view?—It would.

2154. And yet, I suppose, that would be strictly legal?—Yes.

2155. You would not wish to have that made illegal—I am only trying to ascertain your view?—Put it in this way: that a man has left his employment, his time is his own, and I do not see that there is any harm in a man belonging to the union in a quiet way speaking to this man and saying, "Would you not like to join our union, as I think it would be a benefit for you?" We employers have no objection to that.

2156. Supposing he goes on further to say, "If you do not join we shall refuse to work with you in the future"?—Then, of course, that is a matter for him to take what steps he feels disposed about.

2157. That is what you would include in "intimidation"?—Yes, but what I am including more particularly in intimidation is this: that men who are willing to work should refuse to take out their teams and refuse to go to work simply because all these men are scattered about and may be met anywhere, and they are afraid of not only intimidation by what you call peaceful talking and persuasion in a quiet way, but these men take violent measures as well.

2158. Let us keep to the clear distinction. Of course if the men threatened physical violence, that is a legal offence and a criminal offence which the law at present meets?—Yes.

2159. There are other kinds of intimidation, as you have used the word, namely, the intimation that disagreeable consequences other than personal violence would follow, and you have included that under the head of intimidation as an objectionable thing?—I have, but what I want to point out is this: that supposing a man says, "I am going to take out my team, and I do not care what you say" (and we have had men do that). On the first day they have taken it out but they have positively refused to take it out the second day. Why? Because these men are following them about, and a missile was thrown at the head of one of my men and he was injured; another had his traces out, and these men who follow about the men who are at work do not care what they do, and if it was legalised it would give them greater power still; many of them would think they were doing right because they had got leave and licence to do it, and it would be most difficult to be able to prove the offence against them. Our own men would be afraid to say anything about it, because they would be marked men immediately.

2160. (Chairman.) If at the present time it is not illegal for A to say to B, "If you do not come out with us, our men in future will not work with you," do you think it should be made illegal?—I think it should be made illegal; I do not think myself that the liberty of the man who is willing to work should be interfered with by another man.

2161. But, assuming that it is legal and not illegal for A to say to B, "If you do not join us we shall refuse to work with you," does it follow from that that persons should be allowed to watch and beset a house in order to give that information to a man?—I do not think they ought to be allowed to do that sort of thing.

2162. (Sir William Lewis.) You would abolish picketing?—I would most decidedly.

2163. (Chairman.) As to the second point mentioned in your paper, do you consider that where the agent of a

trade union acting within the scope of his authority commits a tort, the union funds should be liable?—Most decidedly I do. I think myself that it would give leave and licence to the trade unions to act in an underhand way if their funds were not liable, and as business men we can see exactly how it might act; they might shelter themselves under some pretext or another, and, of course, if they knew they were irresponsible, and that their funds were not likely to be touched, they would go to greater lengths than they do now.

2164. For instance, in the Taff Vale case the damage done by what was considered to be the illegal act of the union amounted to £23,000?—Yes.

2165. Do you think that unions should be at liberty to do damage, to the extent of £23,000 through their agents?—I do not think so at all; I think it most unfair.

2166. (Mr. Cohen.) You would treat them as you would treat any company?—Certainly; any corporation or company are responsible for the acts of their servants; we are responsible for the acts of our servants, and it does not matter even if the man is the worse for drink, we are responsible for his acts, and if he loses any goods or anything of that kind we are called upon to make them good.

2167. (Mr. Sidney Webb.) Would you treat the trade union then as a corporation or company for all purposes? I mean, would you be in favour of giving a trade union the powers and privileges which a corporation or company now has, as well as making it subject to the liabilities of a corporation or company?—I do not know why they should not have these.

2168. Let me give you one case. At present a trade union is not allowed to enter into a binding, legal contract with its members, and consequently if it has a rule it cannot enforce that rule on its members by way of a penalty for breach of contract?—That is a rule probably that belongs entirely to themselves, and may perhaps fit in with their own particular constitution.

2169. No, as a matter of fact it is a disability they are under by law; but the point is, if you make a trade union liable for the acts of its agents, would you be prepared to allow them to enter into the same sort of arrangement with its agents that a company can enter into with its agents?—I did not know that there was anything too prevent them. (Mr. Kearsley.) For my part I would say undoubtedly. (Mr. Taylor.) We are perfectly ready for anything fair and reasonable, but we consider that this private picketing, and picketing at all, is most unreasonable and unfair absolutely. If a man chooses to meet another man when he is out of his employment, there may be something to be said for that; but during the time of his employment, they ought not to be allowed to intercept him or interfere with him in the course of his work.

2170. (Mr. Cohen.) You say that picketing nearly always leads to intimidation?—Yes.

2171. And therefore it would be unwise in your opinion to give permission to picket peacefully or to persuade peacefully?—Quite so.

2172. Since that is such an exceptional case and so difficult to prove, it would be contrary to the principles that govern legislation to provide for that very special case?—Just so.

2173. (Chairman.) You have nothing more to say?—No (Mr. Kearsley.) No (Mr. Lavington.) Having been delayed by the fog I do not know the exact nature of the evidence which has been given, but it is hardly fair that I should take up your time now, as I would probably go over the same grounds as my colleagues. I would just say that I am strongly against what they call peaceful picketing, because I have experienced it and know what it is.

Mr. FREDERICK PARKER RHODES called and examined.

2174. (Chairman.) You are Secretary to the South Yorkshire Coal Owners' Association?—I am.

2175. You are a solicitor by profession?—I am.

2176. And you have been connected more or less with mining operations for a long time?—Yes, practically during the whole of my life I have been engaged in matters of that description.

2177. And have you also had experience as Chairman of two large mining and manufacturing companies?—I have.

2178. For twenty years you have had, as solicitor, the conduct of the affairs of the South Yorkshire Coal Owners' Association?—I would not say as solicitor; I have had the conduct of the affairs of the Association simply because I

Mr. Frederick Parker Rhodes.

29 Nov. 1904.

Mr. Frederick Parker Rhodes. happened to be a person conversant with the trade generally.

2179. I first ask you about your own Association, the South Yorkshire Coal Owners' Association; that comprises, I suppose, a number of mining firms?—Yes, it is an Association which embraces the majority of companies carrying on collieries in South Yorkshire, and was formed mainly for the purpose of protecting an individual owner against unjust attack by the men's Association; and an exactly similar Association formed on the same lines and managed in the same way, exists in the other portion of the Yorkshire coalfield which we call West Yorkshire. Therefore the owners in the whole of the Yorkshire coalfield are mainly represented by those two Associations.

2180. They are two separate Associations?—They are separate Associations.

2181. Have you a knowledge of both of them?—Thoroughly, and I may say that anything I say here to-day is said on behalf of both.

2182. In the South Yorkshire Association what is the arrangement you have in the case of strike in respect of assisting one another?—Where an owner is unjustly attacked by the men through their Association, we support that owner, who without such help would be powerless.

2183. You support him, how?—Pecuniarily, but before granting that support we always appoint a committee to enquire into the facts and ascertain whether the owner is or is not in the right in declining to concede the demands of the men.

2184. May I say here that our object is not to ascertain whether the employers or whether the workmen act reasonably. The whole question before us is whether they act lawfully or not, and whether the law should be changed so as to make that unlawful which is lawful, or lawful which is now unlawful. You assist your brethren pecuniarily?—Yes.

2185. Do you assist them in any other way? Supposing there is a strike against firm A, would the other firms in the Association employ during the strike any of the men who were on strike?—No, we have no such thing as a black-list, but if there was a strike going on at colliery A, and if I, as a member of the Association, was contributing to the pecuniary support of the owner of colliery A, the men's Association on their part contributing pecuniary support to the men there employed, I naturally, if I knew it, should not employ a man who was at work there, as by so doing I should be relieving the funds of the Association that I was fighting.

2186. Does the Association ever circulate any lists?—Oh, no.

2187. If the Association does not do so, does it ever arise that the mine owner, against whom the strike is, sends to other collieries or any one colliery a list of the names of the persons on strike?—No, it is not done, and I do not think there would be any use in doing it, because there is not the slightest difficulty in a man changing his name at a moment's notice for the purpose of employment, and it really would not help you at all if you did it. If a man comes to the colliery and asks for a job one naturally asks him, "Where did you work last, and what have you been doing?" and if his replies are satisfactory he is set on; but if he could not give a satisfactory answer he would not be set on.

2188. As the members of your Association support one another pecuniarily during a strike, do you think it legally justifiable in the workmen who struck originally against, say, colliery A., striking against collieries B., C., and D., which assist A.?—That is a rather difficult question to answer when it has to be answered, as I must answer your question, generally, but I would say this, that, personally, I can see no reason why men should not strike, or why owners on their side should not discharge men so long as both sides avoid an illegal act and act within the law. I think the law must be equal for all, and it should be applied with equal force to both. There may be circumstances, of course, where calling upon men to strike at colliery B. in consequence of a strike at Colliery A. might bring it within the term of an improper or illegal act. I think every case must be judged by its circumstances, but assuming that the whole of the circumstances

are lawful I think the same law must apply to both owner and workman, and as the owner has the right to discharge so must the workman have the right to say, "I give in my notice, and refuse to work."

2189. Do you consider that which you have said just now represents what the law is or what the law ought to be?—I think it represents both, if I may say so; I think when you get into the second category I have endeavoured to indicate you then get into the class of acts which were enquired into in the Irish case, *Quinn v. Leatham*.

2190. Everybody is agreed, of course, that if acts which are positively illegal are done the persons who do them should be made responsible, but the question is whether certain acts are legal or not: do I understand you to say that you think it should be for the Court, on a review of all the circumstances, to say whether the action of the workmen or masters has been reasonable, and if it is not reasonable but unreasonable that that conduct should be considered unlawful and that they should be respectively answerable for that conduct: is that your view?—I think you must leave it to the Court to say whether the particular set of circumstances take the act complained of out of the category of lawful acts into the category of unlawful acts or not, and I would illustrate that by saying this: if you take the case of *Quinn v. Leatham*, that I have just referred to, no one for one moment I apprehend would attempt to justify the acts that were committed in that case in the way in which they were committed.

2191. You must not assume that?—Perhaps then, Sir Godfrey, you could take it that I could not bring my mind to assume that anybody else could justify them. The acts committed in that case in many instances were not in themselves unlawful; it was the manner and the way in which they were committed that caused what in itself in some cases might have been a perfectly lawful act to become the engine of cruel oppression.

2192. Do you consider that to be a reasonable law to govern the conduct of workmen on strike?—I think so.

2193. How can they know whether they are doing a thing which is legal or illegal according to that?—I think they are all perfectly aware of it at the present time.

2194. Do you think it is right that workmen, and masters too, for that matter, should be placed absolutely at the mercy of the Court to say whether they have acted lawfully or unlawfully?—I see no reason myself why master and workman should not be in the same position, as all the subjects of His Majesty subservient to the jurisdiction of the judges under which I am content to leave myself and my interests.

2195. But if it is an arbitrary jurisdiction—that is the point—if it be open to the Court to say "We consider this conduct unreasonable, and therefore it is unlawful, and there should be damages"—do you think that is right?—I do. I think no English judge would find an act to be unlawful unless it was either unlawful or he had the strongest grounds for coming to that conclusion.

2196. You admit that it is not contrary to the law itself, but you think that owing to the surrounding circumstances it should be treated as unlawful?—The word "it" is rather confusing there.

2197. I meant any action whatever?—As I say that is a question of circumstances and degree.

2198. Do you think that a reasonable law? Does it apply to anybody else besides employers and employed?—Certainly. Let me illustrate my meaning. I wish to avoid of course entering into an argument.

2199. As a witness I wish you to oppose me in every way?—Then I will do so, and I would illustrate my meaning in this way. To go away entirely from the question of employer and employed, it is open to me if I like to say to myself, "I will not deal with the village grocer," but if I go to the farmers round the district and to the other people residing there and induce all those persons to cease dealing with the village grocer, what would be an innocent act on my part would become then an extremely wrongful one and one for which I ought to be held responsible because I should ruin that man, and unless he had a remedy he would be helpless.

2200. In fact, you are in favour of what they call the conspiracy to injure?—I am not in favour of it; I am in favour of some law to give redress against such a state of things.

2201. The law of conspiracy to injure gives redress in those cases?—Yes.

2202. You think that although an act is lawful in one person if it is done by a number of persons and with a bad motive it should be unlawful and punishable or actionable?—Yes; I would put it in this way, that I see no reason why the common law of the land, which is always in existence, should not continue to apply to acts of that description; unless you create some new right by Statute of course the common law of the land applies, and I see no reason why it should not.

2203. (*Mr. Cohen.*) Do you know that in the year 1875 the Conspiracy and Protection of Property Act was enacted?—Yes.

2204. And that the Lord Chancellor of the day, Lord Cairns, said that the one main object of the enactment was to prevent the uncertainty of the common law as to conspiracy operating unjustly and unfairly as against workmen. You see he thought, and he was a great lawyer, that the common law of conspiracy was most vague and uncertain, and one main object of that Act was to prevent its application to workmen?—Yes, and it did it.

2205. You do not approve of that?—I do quite.

2206. I thought you said you would leave it to the judges to declare what was an infringement of the common laws of conspiracy?—Or an infringement of the special privileges created by that Act.

2207. It seems to me you would re-introduce the evil which Lord Cairns tried to destroy?—I think not, because the Conspiracy Act of 1875, to which you have just referred, laid down with fair clearness, except in one respect where it is alleged that it is ambiguous, what should be the rights and position of workmen in the future and to what extent they should be relieved from the liabilities attaching from the common law doctrine as to conspiracy.

2208. I do not think you will find in the Act any positive enactment making conspiracy an offence *quod* conspiracy?—No, clearly not making it an offence; it was an offence naturally, and what the Act does, as I understand it, is to lay down certain exceptions which would prevent the ordinary common law doctrine as to conspiracy applying to trade disputes. Up to that time any combination amounted practically to a conspiracy, and a combination to strike was illegal. I should never suggest for one moment that that state of things should be re-enacted. I think a workman has a perfect right to strike if he likes.

2209. Do you mind taking the Conspiracy and Protection of Property Act, 1875, for a moment and referring to the third section of it: "An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy, if such act committed by one person would not be punishable as a crime?" As a lawyer you know that that alters the law in a very material manner?—Yes, it does.

2210. And the alteration is limited to the case of employer and workmen, is it not?—Yes.

2211. So that this Act, whether wisely or not, did, as regards employees and workmen, very materially alter what was considered the common law of conspiracy?—I agree.

2212. Would you do away with that alteration?—I have said no, or intended to say it.

2213. I daresay you did. So that you are of opinion that, as regards employers and workmen, the common law as to criminal conspiracy should not be applied?—Subject of course to what follows in the remainder of the Act, and of course we may take it that I have that in my mind. You may take it from me as fully as you like that I think so, because unless that were so it would be impossible for men to arrange together to strike for the protection of their own interests, and that, I think, is a liberty that they have had since 1875, and that they ought to have.

2214. You think that but for this section to strike would have been illegal—criminal?—I think it would; I think but for this section an agreement among a number of persons to bring about a strike—which, of course, naturally would result in injury to the employer—would have placed the persons entering into that combination in a very difficult position, and, as I understand it, it was for that reason, to a very great extent, that this Act became law.

2215. (*Sir William Lewis.*) As I understand the replies you are giving, you do not suggest that a man should not have the power of striking?—On the contrary, I think that it is an absolute necessity for his protection that he should, and that he should have it in the fullest possible way, provided he does it by legal means.

2216. (*Mr. Sidney Webb.*) That is to say, a strike for any object properly conducted should be allowed to be legal?—Yes.

2217. And you would not limit the object of the strike, although you might watch the method of the strike?—Yes. Suppose, for instance, my men come to me and say, "Here is fourteen days' notice to leave your employment," I say "What for?" and if they say, "We are not going to tell you," they have a perfect right to do that, and I would be the last person in the world to limit that, because I could not limit that right without limiting the right I also possess of saying to a man whom it ceases to be my interest to employ, "You shall go."

2218. Just to get it quite clearly, supposing it were proved that the motive and object of the men in wishing to strike were simply to punish some particular individual against whom they had a malicious spite?—The moment you bring in the question of malice then a different set of things arises.

2219. I was only probing your suggestion?—That is why I said to the Chairman at the outset, that it was difficult to answer a question of that kind in general terms.

2220. I only wanted to get it clear; it is clear an individual workman might legally refuse to work, or to continue to work, with an employer, merely because he thought he had a spite against that employer?—Clearly.

2221. The question is whether a number of workmen may lawfully be allowed to conspire together to cease work where the Act becomes different in its legal quality, merely because a number of men are doing it?—No, I should not go so far as that.

2222. Then we come back to the original point, that therefore you suggest that the motive with which the men conspire to strike cannot affect, and ought not to affect, the lawfulness of their Act, that whatever motive the men have, if their strike is lawful for a good motive it is lawful for a bad motive.

2223. (*Chairman.*) Under this particular clause do you consider that workmen could be criminally prosecuted for conspiring with a bad motive?—No.

2224. (*Mr. Sidney Webb.*) And you do not suggest that they should be?—No.

2225. (*Chairman.*) You are familiar with the case of *Quinn v. Leatham*?—Yes, I have read it.

2226. You are aware that was a case not of criminal proceedings for conspiracy, but civil proceedings for conspiracy?—Yes.

2227. Are you aware that *Quinn v. Leatham* decided that that third section of the Act which has been referred to did not affect the question of civil proceedings for conspiracy?—Yes.

2228. Therefore, workmen are now in civil matters subject to the old law of conspiracy?—Yes.

2229. Do you think that is right or not right?—Of course, when I came here this morning I did not intend entering into an abstruse legal discussion, or I would have taken those cases and read them up and informed my mind, because, although I am a lawyer, nine-tenths of my business is anything but law, and my law I am afraid may be taken to be somewhat rusty; it is also an extremely difficult and complicated subject, and I should, certainly, before giving any decided opinion of my own on any legal point arising on it, like to read up the cases bearing upon it.

Mr. Frederick Parker Rhodes.
29 Nov. 1904.

Mr. Frederick Parker Rhodes. 2230. You would not like to express an opinion on the point of whether the old law of conspiracy should apply to civil cases or not?—No, I should not; broadly this is what is in my mind, that the employer and the workman should both be on the same footing before the law, and that the right of the workman to strike, and the right of the employer to dismiss should not be affected by any legislation, both should be perfectly free to act as they think fit, providing you do what I think the law must do, protect effectually the minority on either side whichever it may be who may desire to take a different course to that of the majority.

2231. (*Mr. Cohen.*) Protect it from illegal intimidation?—Yes.

2232. (*Mr. Sidney Webb.*) But not, if I may push that further, necessarily protect the minority from loss or unpleasantness?—You cannot protect the minority from loss; of course, any strike brings about loss, but take the state of things that we had in our district not long ago, when the great strike at the Denaby Collieries took place, that was a strike which was brought about by the local officials of the Miners' Union.

2233. (*Chairman.*) Forgive me, I do not want to interrupt you, but the history of that strike is a very long story?—I am not going into the story, but I am going to use the fact for a moment as an illustration of what I mean. Rightly or wrongly, the strike was prolonged; a substantial minority never wished to strike, but wished to work, and did work, and eventually were compelled to abstain from working. Now I say that that minority is entitled to the fullest protection.

2234. (*Mr. Cohen.*) How were they compelled to abstain?—By a threat, followed by the fist.

2235. By what was clearly illegal intimidation?—By what is called in the first instance "Attending for the purpose of imparting information," which never stops at that. I say that you must protect a minority of that kind just as you must protect the individual owner.

2236. (*Chairman.*) Just to go back to *Quinn v. Leatham*, you admit that that decided that the old law of conspiracy was unaffected by the Conspiracy Act?—Yes, civilly; that is clear on the face of the Act here, because this merely provides that workmen shall not be indictable for a conspiracy.

2237. Do you consider now that there should be one law for criminal proceedings and another law for civil proceedings?—There must be unless you repeal that Act.

2238. Yes, that is so now, but do you consider that is a right state of things?—I do.

2239. Therefore when workmen strike they have to consider both the criminal and the civil law?—I think not; I think when workmen strike their leaders know that they are perfectly free from being haled before the Criminal Court but that they must bear in mind that they so conduct their strike that they do not infringe the civil law as to conspiracy and that they do not commit wrongful acts which would bring them within that law and render themselves liable.

2240. (*Mr. Cohen.*) Have you ever studied the question as to whether there was ever any civil action for conspiracy?—Well, I cannot say that I have, but I think there must have been the right.

2241. That is all you can say?—Yes. I remember being struck with an expression, I think of the Lord Chancellor's, and I believe it was in the judgment of the House of Lords in *Quinn v. Leatham*, where he said that if there was no civil remedy for such a state of things our jurisprudence could hardly be considered to be that of a civilised country, or words to that effect.

2242. I think the Lord Chancellor would have said the same thing about the criminal offence. I cannot see why it is more necessary to have a civil remedy than it is necessary and just to punish the man who does acts of the kind referred to by the Lord Chancellor; he might just as well have said, "It is monstrous that the man who does such cruel acts to ruin others should not be punished." I do not see why you could not be as eloquent about the necessity of criminal punishment as the Lord Chancellor was about the necessity of providing a civil remedy?—I am afraid my eloquence would not

affect the issue if I exerted it, but I think the answer is that since 1875 that has been the law of the land, and when I am asked whether I think it is necessary to alter it, I say no.

2243. (*Chairman.*) If the law as to civil proceedings for conspiracy is that any two persons are liable for doing an act which is not in itself unlawful, but is harmful and is done with a bad motive, are you in favour of its being continued?—I think it would be dangerous to do away with it.

2244. Then you are in favour, as I understand, of placing workmen on strike in the absolute discretion of the Court to say that their proceeding, although not unlawful in itself, yet having been done in concert and with a bad motive, is illegal and actionable?—Not necessarily; it depends on the act they are going to do.

2245. Forgive me, it does not depend on the act; the act we assume is not in itself unlawful—it is any act which is harmful.

2246. (*Mr. Sidney Webb.*) It is any act which the Court may think harmful?—I think that is the true answer, because there are many acts which, although innocent when committed by one, would become serious when committed by a number of persons in combination.

2247. (*Chairman.*) Do you consider that is a workable law for workmen on strike?—Yes.

2248. Do you think the ordinary collier could understand, when he is asked to go out on strike, whether he is going to act unlawfully or not?—The ordinary collier has never to consider that; it is the skilled man at the head of his affairs and under whose orders he acts who has to consider that.

2249. The Trade Union Delegate you mean? Do you think a lawyer for instance, the most accomplished lawyer in the Temple, could advise a trade union with confidence as to whether their action in a strike will be lawful or not?—Yes I do, and I go further than that: I have had a considerable experience of the gentleman to whom you refer; I sat on the opposite side of the table to him for twenty years, and I have often wished that the same quick wit and intelligence was present on my side of the table [that existed on his. You must remember that they are the few picked men out of a very large class; they are remarkably able and intelligent, and keen-witted men.

2250. You think the Trade Union Delegate must be assumed to be a good lawyer?—No, I do not say that, but I assume that the Trade Union Delegate—I am sure he is—is a man whose abilities and intelligence are far above the average, or he does not get into his position.

2251. Let us take *Quinn v. Leatham* with which you seem to be familiar and upon which you have a strong opinion, what do you consider to be so specially objectionable in the action of the men?—May I refer to the report for a moment?

2252. I will put the question in a more general form. Take the question of non-unionists, do you consider that unionists have the right of striking against non-unionists—I say they have.

2253. In every case?—I say they have. I say that the men are perfectly entitled if they like to come to me and give in their notices and say: "We decline to work with these persons who are not members of our Union," and so long as they give in their notices and strike I must make the best of it.

2254. Are they at liberty to strike more than once against a non-unionist?—I cannot see how they can be prevented unless you are going to do away with the right that every Englishman ought to possess to dispose of his labour as he thinks fit, but on the other hand I would rigidly protect the non-unionist who says, "I will not strike and I will work." I would protect him to the fullest degree from threat or intimidation—overt or covert.

2255. You have told us that employers assist one another in the case of strikes; do you consider that workmen who are striking against A have a right also to strike against B, in case B assists A, or they think it will promote their strike against A?—I think in most cases they have.

2256. What is the exception?—As I say it is difficult to answer a question of that kind on general grounds and to pin myself to every case, and I would not do it. I can conceive cases where, if the acts were indulged in that were indulged in in *Quinn v. Leatham*, I would not for a moment say it would be right, but supposing men at a colliery give in their notices and a strike results and all the other men in Yorkshire say, "The owners are supporting this colliery, this is never going to be ended, it is a question of principle and we will all give in our notices and strike unless the demands made at that colliery are conceded," I think they have a right to do so.

2257. Would you indicate any circumstances which would make such a proceeding objectionable and unlawful in your view?—I say at once that if the proceedings that were adopted in *Quinn v. Leatham* existed, that would be a state of things I cannot assume that any one would wish to justify.

2258. If you are familiar with *Quinn v. Leatham* to that extent, what were the circumstances you considered so objectionable; or I shall be content with an answer to this general question: What are the circumstances that would render a sympathetic strike unlawful?—I wish to guard myself from saying that, under all circumstances, a sympathetic strike would be lawful; it seems to me that in most cases it would, and that there is no reason why it should not be if the men choose to adopt it, but I wish to guard myself from committing myself to an expression of opinion that in every case such a strike would be lawful.

2259. (Mr. Sidney Webb.) It is not the mere malice against an individual?—Not solely. Really these are matters which if one wished to give an expression of opinion upon one would prefer to consider carefully and weigh one's words, and, as it were, give a written judgment rather than a verbal one.

2260. (Chairman.) I quite agree with you, but what is to become of the Trade Union delegate when he is advising those men to strike?—You are asking me now to commit myself to a formulation, if I may say so, of the law.

2261. You can trust him to steer the vessel straight: Do you know any other case in which persons are liable for doing something which is not unlawful but which the court thinks unreasonable?—I cannot say at the moment.

2262. (Mr. Cohen.) I just want to ask you one question: I understood you to say that the 3rd section of the Conspiracy and Protection of Property Act, 1875, was enacted for the purpose of preventing a strike from being a criminal offence?—I think so.

2263. So that you are of opinion that before that Act a strike was a criminal offence?—Yes. We are speaking a long way back, and one does not like to trust one's memory of the law, but I am trying to remember whether there was a previous enactment in force prior to the Act of 1875.

2264. As far as the Acts are concerned before the Trade Unions Act of 1871, I think they did enact that a strike would generally be a criminal offence?—Assuming for the moment that the common law doctrine had not been interfered with by statute prior to 1875, then I think a combination to strike would have been unlawful at common law.

2265. I only want to point out the serious consequences which may arise. The House of Lords decided that this 3rd section does not affect the civil remedy at all?—I think there never has been any doubt as to that; the doubt, I think, was upon another subject.

2266. Let us see what the result would be according to your view. Before the Act of 1871 at any rate a strike would have been a criminal offence?—Yes, I will assume it for the moment.

2267. Assume now that before the Act of 1871 a strike would have been a criminal offence?—Yes.

2268. Then the civil remedy is not affected, and therefore if a strike injures anybody, the person so injured can maintain an action against the strikers; is not that right?—He could, provided he brought them within the law for that purpose, but I think, if I may say so, that there never has been any doubt that the civil law as to conspiracy, whatever it was, was not altered by that 3rd section, because the 3rd section is so clear that it merely provides that "the agreement or combination, etc. shall not be indictable as a criminal offence."

2269. What do you mean by the civil law as to conspiracy? I really do not know what that means?—I say the civil law—the common law—whatever it was, as to conspiracy, was not affected clearly by that third section.

Mr. Frederick
Parker
Rhodes.
29 Nov. 1904.

2270. Yes, the common criminal law as to conspiracy has been affected. You assume such a thing as a civil law of conspiracy; are you quite certain of that?—In other words, the civil right of a person for injury caused by conspiracy, whatever it was, as it existed in 1875, was not affected or interfered with by that third section of the Act.

2271. (Chairman.) That section clearly applies in its terms exclusively to criminal proceedings?—Clearly; it leaves the law as to the other branch just as it was, whatever it was.

2272. But if the law before that statute was that in civil proceedings for conspiracy, the conspiracy must be a criminal conspiracy, then of course that third section, in excluding criminal conspiracy, would also exclude civil conspiracy?—Clearly.

2273. And is not the effect of the decision in *Allen v. Flood* that the old theory that conspiracy in a civil case of conspiracy was the same as criminal conspiracy has been over-ruled by the House of Lords; are you following me?—I am trying to, but I would rather not discuss these matters further without particular examination of the cases.

2274. You know enough of *Quinn v. Leatham* to know that the Court held that the result of *Allen v. Flood* was that an action when done by an individual which was in itself lawful would not be made unlawful because it was done with an unfair motive?—I take it from you.

2275. The law of conspiracy is exactly the opposite, is it not; that an act, although itself not unlawful, becomes unlawful because of its being done with a bad motive? Is not that the sense of the conspiracy to injure?—Yes, in a sense, I think it is.

2276. Therefore you have this, that in the case of individuals the motive is nothing, but the lawfulness or unlawfulness of the act is everything, while in the case of a combination the act is nothing except that it must be harmful, but the motive is everything: do you think that is a right constitution of the law?—I see no reason to quarrel with it.

2277. You think the motive ought to be considered in the case of two or more, although it certainly ought not to be considered in the case of one?—I have not said that.

2278. That is what I said?—I was addressing myself to the two or more—to the combination; if you ask me my opinion as to an act committed by an individual, whether the motive ought or ought not to influence the decision, I will answer.

2279. I ventured to call your attention to *Allen v. Flood* as interpreted by *Quinn v. Leatham*, that the motive does not affect the question, it is decided in so many words that an act in itself lawful does not become unlawful if done from a bad motive.

2280. (Mr. Cohen.) You do not remember *Allen v. Flood*?—I remember it generally, but one cannot deal with judgments in a complicated matter of this kind without having them before one. I should not have the slightest objection, after having sat down and read all the cases, to sit down and put into writing what I think about them, but I do not want to deal with them haphazard without having them before me.

2281. (Chairman.) I will ask you one question arising out of these cases. Do you consider that the motive of unionists to force non-unionists to come into the union, or to force the employer to alter his mode of business, is a bad motive or a permissible motive?—From my side of the question it would be an extremely bad one, but from theirs I can quite understand that one must assume that it is a good one.

2282. Would you not strike a balance between those two, and say, therefore, that that motive is a permissible motive?—Yes, I have already said that I see no reason why unionists, if they think fit, should not strike and say, "We will not work with a non-unionist," giving in their notices and stopping. I cannot prevent them.

Mr. Frederick
Parker
Rhodes.
29 Nov. 1904.

2283. (*Sir William Lewis.*) Do you not think that would be very hard on the non-unionist, apart entirely from the employer?—It would be extremely hard on the non-unionist, and I think when such a state of things arises you must go a little further, and see that your law is in such a condition that the non-unionist, if he still wishes to work, and the owner chooses to employ him, shall not be in any way prejudiced in carrying out his right to work.

2284. I go further and ask: if that is so then it would follow that the employer might decline to employ a unionist?—Clearly, and further than that, in these questions of combination, if owners, acting together in a combination, bring themselves within the meshes of the law, they are in exactly the same position as the men, and the men ought to have a remedy against them and I think they have.

2285. (*Mr. Cohen.*) Let me trouble you with one question which I do not think you will have any difficulty in answering. Take a case where workmen strike; it is no longer illegal for workmen to strike—at any rate it is not a criminal offence. Do you think that a trade union ought to be made liable, if, under those circumstances, the trade union advises the men to strike because they consider the men are justified in striking?—No, I think not; I think if you did that you would strike at the great engine that the workman has for his own protection, and which he is as much entitled to have and possess as I have to possess any right of my own.

2286. (*Chairman.*) But you have it in the cases absolutely laid down that workmen are free to strike for any purpose?—Clearly.

2287. Do you consider that their officers are also perfectly free to advise them to strike?—I do most emphatically; I say that without hesitation.

2288. I understand you have answered Mr. Cohen that just as workmen are free to strike, to use Lord Macnaghten's phrase, for any reason, or no reason, or for a bad reason, the trade union's executive are free to advise them to strike for any reason, for no reason, or for a bad reason?—Clearly.

2289. You are not able to say whether that is in accordance with *Quinn v. Leatham* or not; you would not like to say?—No, I would not.

2290. (*Sir William Lewis.*) You would hold the trade union liable for advising them to strike if they broke their contract?—Yes, but that was not put to me; I am assuming a strike conducted with all legality—that the man whom the trade unionists employ to manage their affairs says to the men "I advise you to give in your notices and stop," and I say under those circumstances you cannot interfere with that action, but if he says, "I advise you to stop without giving notice, and bring this man to his knees by breaking your contracts," then that is a different state of things.

2291. Then you would make the trade union liable?—Certainly.

2292. (*Chairman.*) One more question: Do you consider that the threat of a strike should be lawful or unlawful, namely for a trade union delegate or for the workmen to say to an employer, "If you do not do" so and so "we will strike"?—It occurs continually and I cannot see any reason why it should not.

2293. Are you able to say whether that is in accordance with the law in *Quinn v. Leatham*?—As I say if you wish me to pin myself to my opinion as to that I should certainly decline to do it off-hand, and if I attempted to do it I should prefer to choose my words carefully and put them into writing.

2294. I will put it in this way: if the law is that a trade union executive may be liable for announcing an intended strike to an employer, whatever may be the cause of the strike, you think that law ought to be altered?—I do not think under those circumstances, assuming the trade union executive is simply advising the men to determine their contracts in a legal manner, there ought to be any liability, and I do not think you could impose such liability without unduly fettering the freedom of action that the workmen are entitled to have just the same as the employer.

2295. You do not think that the mere announcement of an intended strike should be deemed to be intimidation?—No, and I may say that it happens continually in prac-

tice; I have it said many times during the course of a year, "Mr. Rhodes, if we cannot get this difficulty settled at this colliery, there will be nothing for it but the place will have to be set down." I cannot complain of that intimation being conveyed to me; on the contrary I am glad to have it, and then I say, "Very well let us sit down and put our heads together, and see if we can find a way out." And if not we fight it out.

2296. (*Mr. Sidney Webb.*) Leaving on one side altogether the question of what the law now is and considering only what you would suggest it ought to be with reference to the law of conspiracy, you have answered very frankly that you think the masters and men should be put on an equality as regards this matter?—Absolutely.

2297. And that therefore the employer should be entirely free to refuse to employ any individual man for any reason, or no reason, or a bad reason?—He must be.

2298. And that similarly the men should be free to refuse to work for an employer for any reason, or no reason, or a bad reason?—That follows when you assume as I have already done that both sides must be put on an equal footing.

2299. What I rather want to get from you is, how you would get over the difficulty of the fact that the employer is an individual and therefore anything that he may do by himself cannot be conspiracy, but that the men in his employment, taken collectively, might be guilty of conspiracy in doing acts which correspond exactly to the acts the employer himself does?—Let me speak of the things I know—of our own district; as a matter of fact nothing is done by either one side or the other except in combination, and I am as much a trade unionist along with my fellow owners as the men are when they come together through theirs. When fifteen or sixteen coal owners come to the conclusion that it is desirable to take any definite course of action and intimate that to the men, their responsibility should be exactly the same as when the men in consultation decide on a definite course of action, and intimate it to the owners.

2300. Yes, but in all trades the employers are not so closely combined as they are in your trade, and what do you say where the employers stand alone—let us say, Lord Penrhyn, for instance?—He is an exception; he is able to stand alone.

2301. There are other trades in which an individual employer insists on standing alone. You would not allow, as I understand, any act to that individual employer which you would not be prepared to allow to the workmen in his employment collectively?—No, and really, as a rule, that is a very isolated case, because although an individual employer in any trade may in fact be acting alone, it is only in the case of an exceptional employer like Lord Penrhyn, that he can ever stand alone, because his funds are not able to bear the strain of a contest with the powerful association on the other side.

2302. There is a tacit conspiracy among employers even if not a formal one; it may be quite a lawful combination?—I think in all trades the practice is for employers to consult together and act together.

2303. Then you suggested, I think, that it might be dangerous to absolutely exclude any civil action for conspiracy, because an act might be innocent if committed by one man, but not innocent if committed by a number?—It might.

2304. How can you reconcile that with placing the group of men on an equality before the law with the individual employer, that there would be some actions which would be permitted to the individual employer which would not be permitted to the group of men?—I would do it at once. The individual man and the individual employer are equal before the law, and a combination of men and a combination of employers are equal before the law, but a combination of employers might do an act as far as an individual man is concerned which might be unlawful, and so also might a combination of men do an act towards an individual employer which might be unlawful.

2305. Accepting that, you would not desire to put a combination of men on a par with the individual employer?—You cannot, unless you do away with the doctrine of conspiracy absolutely and entirely;

2306. That, of course, is the very question, but take it this way: unless you prevented absolutely a civil action for conspiracy, you could not put the workmen under a single employer on an equality before the law with their individual employer, because to put them on an equality involves negating the possibility of an action for conspiracy?—I think not in practice.

2307. Let us put it another way—that the individual employer cannot be liable for an action for conspiracy acting by himself—that is clear; on the other hand, a combination of workmen in his employment under certain circumstances will be liable for a civil action for conspiracy?—Yes.

2308. And therefore you cannot make the same range of actions effectively open to the individual employer on the one hand, and the group of workmen on the other, unless you negative the possibility of a civil action for conspiracy?—Yes, in other words, unless you get rid of conspiracy altogether, and I cannot imagine that anybody would ever want to deprive a man of the remedy in such a state of things as this: Supposing I and fourteen or fifteen other employers say, "There is John Smith; he is the man who has been advising these men to strike, he is the man who has wrought us this injury, we will follow John Smith through the kingdom, we will punish him, we will prevent him working; if he goes to the colonies we will follow him there, and he shall never earn his living again if we can prevent him"—I say that, under those circumstances, to refuse to John Smith the remedy against those employers would strike at the protection that every citizen of every State is entitled to:

2309. Follow that a step further. Supposing the South Yorkshire coal owners, for instance?—Let us say a supposititious body of coal owners, because I cannot bring my mind to assume that the South Yorkshire coal owners would ever act in that way.

2310. Quite so; supposing the coal owners in any particular district now strongly combined for the purposes which we have had described go a step further and become amalgamated into a single limited company (it is not such an impossible thing to suppose) then this single limited company, being a corporation, will be able to do, without committing the offence of conspiracy, that very act which the individual proprietors, before they became a company, would not be able to do?—I think in that state of things you would have such an exceptional situation that you would have to do something possibly to bring that supposed corporation within the law.

2311. The difference, therefore, in your mind, I take it, is not between an act done by several persons, and an act done by an individual; it is really the difference between an act done by an ordinary individual, and an act done by a very powerful one?—Not necessarily; take the instance I have given of the supposed John Smith whom it was desired to punish, I am quite at liberty to decline to employ him.

2312. However large a firm you may be?—Yes, but if I and a number of others put our heads together to prevent his getting employment, we then bring a power of oppression to bear upon him which would be overwhelming and against which he must have redress.

2313. Supposing the United States Steel Company owns all the steel works within the United States, that company can refuse to employ any individual for any reason, or no reason, or a malicious reason?—Yes.

2314. And yet it would be open to the same objection from the point of view of morality as if it were done by a combination of steel employers?—Yes, it is a very big concern, but it is not correct to say that it owns the whole of the steel works in the States; it would only like to do so and it would then be nearer its object, but it is a very big concern and possessed of great power.

2315. To come to practical questions, supposing you say that a railway company is the sole railway company within a large district, as is very frequently the case, and it refuses to employ a man for no reason, it compels that man either to leave the district—to go into exile from his home or to cease his employment. I am anxious to draw out the distinction between an act which might be innocent if committed by a weak man, but would be very unnatural or oppressive if committed by a very strong man?—It is very difficult to deal with that, because, you see, so long as you preserve to the railway signalman the

right to give in his notice and go for no reason at all, so long must you preserve to the employer the right to give him his notice and say, "You must go." *Mr. Frederick Parker Rhodes*

2316. That is my opinion, but I am only anxious to ask you whether you would make a distinction between the individual employer who happens to be the sole employer over a huge area, and a group of employers who are combined together for a similar act?—No, I think not, unless it was found that the assumed single employer was so immense, that it practically amounted to a combination, and in that case you would have to consider what you would have to do, but that does not at present arise. 29 Nov. 1904.

2317. The London and North Western Railway Company has at present 5,000 shareholders; that is a very large combination?—Yes.

2318. And you would not limit their power of dismissing?—No, you cannot.

2319. And yet you would limit the power of the workmen on the London and North Western Railway in conspiring against their individual employer?—I have never said so.

2320. I thought you said it would be a very dangerous thing to protect them from being sued for conspiracy to injure without committing any unlawful act?—I have said this, that I can see no reason for any alteration in the law as it stands; they are perfectly at liberty, if they like, as far as I know, to arrange together to give in the whole of their notices on a given day; no power can touch them if they do it, and no power can compel them to go back to their work.

2321. Are they not liable for damages in certain cases?—No, I know of no case.

2322. Do you think they ought to be liable for damages in any case?—I think not. I am giving you my own individual opinion. I believe that expressions of contrary opinion have been given, but personally I think that so long as men, or employers either, act within the four corners of the law and give legal notice to determine their contract you cannot interfere with them.

2323. And you think they ought not to be liable for damages under those circumstances?—They are not.

2324. There may be doubts as to what the law is, but you think they ought not to be?—As to that I will not give the opinion that I think there is absolutely no doubt. I think, if the whole of my men come to-morrow and tender me fourteen days' notice and go, they are doing a perfectly legal act; they have done no illegal act, and they have not committed anything which entitles me to any remedy against them.

2325. Even if they are doing it maliciously or from a bad motive?—That is another question; that is going again into a debatable branch of the law, and, as I say, before I give an opinion as to that I would rather look up the cases.

2326. I am asking you at present what you think the law ought to be?—If you ask me what it ought to be, my own view is that the man who maliciously goes out of his way to work injury to another ought to be answerable for the consequences.

2327. The individual man ought to be?—I think so.

2328. And the combination of men ought to be also?—I think so.

2329. And that they ought to be equal?—I think so.

2330. That is to say, a combination of men ought to be equally liable, if it goes out of its way maliciously to do any one an injury, as an individual doing it?—I think so; you are asking me now for my opinion as to an ideal law in an ideal state, and I give it.

2331. And therefore if the law was to be that an individual should not be liable in such cases you think it should be the same for a combination? You are suggesting that the individual and the combination should be equally liable under those circumstances?—Yes; you asked me, with regard to where an act is done maliciously to the injury of another, and I say that if you asked my opinion as to what an ideal law ought to be, the person who acts maliciously so as to injure another, whether alone or in combination, ought to be answerable for the consequences.

Mr. Frederick Parker Rhodes. 2332. And they should be equally liable?—Yes, they must be.

2333. (*Chairman.*) Just one question more. You stated that your opinion was that it should be lawful for workmen to strike, or for workmen's advisers to advise them to strike for any reason, for no reason, or for a bad reason?—I have not quite adopted the last.

2334. I think it is on the notes, and yet you told me at an earlier part of this meeting that you would not undertake to say that a strike against non-unionists, or that a sympathetic strike, should be in all cases legal?—Yes.

2335. How do you reconcile those two?—I do not see that they are irreconcilable.

2336. Yes, if you first say that all strikes are lawful, and then say that some are unlawful?—It was not my intention to go quite so far as you have said now.

2337. You mean that you would qualify your statement that it is open to workmen to strike, and for their advisers to advise them to strike, for any reason, for no reason, or a bad reason?—I had in my mind the qualification as to that secondary strike where I said I should not be assumed to commit myself to the judgment that that was right in all cases.

2338. (*Mr. Cohen.*) When disputes arise between the mine owners and the miners in Yorkshire, how are they generally settled?—In this way: we have a joint committee, and that consists of a number of men who are appointed by the miners' union, and although the miners' union do not represent the whole of the men of the different collieries, they represent such a considerable proportion of them that they may be taken to fairly represent the interests of those employed, and we on our side appoint a number of employers. When anything takes place at a colliery which appears likely to bring about a strike the owner would notify me, and I should then communicate with the workmen's representative and say, "There is likely to be trouble at such and such a colliery; the question at issue appears to be so and so; do you not think it is one that the joint committee could deal with?" We then get a meeting of the committee, and we thresh the matter out; sometimes we settle, and very often we do, but sometimes we fail, and in those cases we have on many occasions had recourse to arbitration—I am sorry to say, not with the conspicuous success I should have liked, because the difficulty has often occurred of how to obtain adherence to and acceptance of an award when made, which, of course, never can be made by a body invested with legal powers to enforce it. We have had more than one serious strike against an award, but still those are the methods we adopt. Then occasionally comes the last resort of all, when you cannot settle the thing in any way, and when the men say, "Very well then, we cannot help it, we will have to give in our notices."

2339. On that committee the men are represented more or less by officials of the trade union, are they not?—Yes, they are not all officials and not all paid, but I suppose they would be officials in a sense. You have the principal men there, and then you have also men coming from the different parts of the district, so as to bring the local knowledge that is necessary in order to deal with the different bodies.

2340. If a question is settled by the committee you have described, it is settled with the consent of the trade union really, is it not?—Yes.

2341. And the stronger the trade union is, the more control it will have over its own members, and the more likely is that settlement to be effective?—Do you know, I held at one time a very strong opinion that the existence of a strong trade union in the district would tend to diminish individual disputes, although it might possibly tend to increase the great struggles for general rise or fall in wages, and I held that opinion rather strongly twenty-years ago, and for some years afterwards. But I find from experience that, whether it is a case of cause and effect, or whether it is only a matter of coincidence, as the union in our district has grown in strength unfortunately, the number of local disputes has been increased, and during the last ten years we have had certainly four times the number of disputes that we had in the previous ten years.

You would perhaps realise the serious character of that cause of trouble, if I tell you that I have paid in compensation to the members of our association during the last ten years over £120,000 from the funds of our association.

2342. (*Sir William Lewis.*) And that is for petty strikes?—For petty strikes—nothing to do with the big strike of 1893, or general strikes, but only for petty strikes, and more than one of those has been a strike against an award.

2343. (*Mr. Cohen.*) Have you any information that those small strikes were encouraged by the trade unions? We have known some instances in which workmen have refused to comply with an award, contrary to the instructions of the trade union?—I wish to be perfectly fair to the trade unions, and above all things I should wish to be fair to the union in my own district, because my relations with the persons who manage it have been very close and intimate for the last twenty years, and I may say that I have a very great regard for a number of the men who manage its affairs. I think in many cases these strikes are not in the first instance encouraged by the head officials of the union, but a state of things arises when it is less trouble for them to let the men obtain the consent of the other branches of the district to give in their notices, and so let the matter be settled in that way; it relieves them of personal responsibility and risks, and they say, "The men have taken it into their hands, the men have done this and not us." There are, I think, many instances where a local strike is encouraged by the union, and where at the same time the union poses as not encouraging it. I think that to some extent the Denaby strike in our district was an instance of that description. I do not believe that the men at Denaby ever would have struck without the encouragement of the local officials of the miners' union, and I do not believe that the local officials of the miners' union on the spot would have gone to the length they did, unless they had a very shrewd notion that their action would be supported by the great body behind them.

2344. (*Chairman.*) Have you anything to say on the question of the Taff Vale decision?—No; that is part of the general legal question, where I do not think the opinion of a person like myself carries much weight.

2345. Do you think the trade unions should be relieved from the liability of their funds for tortious acts committed by trade union agents?—No, I think not; I think if you are going to allow the creation of a large and powerful body possessed of enormous funds, and if you are going to free that body from any liability whatever, you are creating a very dangerous kind of body within the State.

2346. (*Mr. Sidney Webb.*) Would you give the trade union the correlative privileges of a corporate body?—That, I need hardly say, opens a very wide field for discussion, but I have not the slightest objection to have the courage of my own opinions on the subject and to give them; I think I know what you will say. I am rather inclined to think myself that it would be for the advantage of everybody that the legal rights and powers of trades' unions, so far as combination is concerned, should be extended and that they should assume more the position of corporate bodies, but if any change of that kind was carried out you would have so to carry it out that you avoided, as I say, the coercion of the individual by legal forms instead of by illegal forms. It is a question, however, which is so large and which opens so many side issues that it is difficult to speak about it on the spur of the moment, as I am doing now, and to give a considered opinion.

2347. (*Chairman.*) I concur with you that it is a most important question, but there is no good attempting to answer it, except a person has thought out the matter. I will ask just two pertinent questions. Would you desire to see power given to the trade union to apply to the Court for an injunction to prevent men going to work who wished to work?—No.

2348. (*Mr. Sidney Webb.*) Even if that were in breach of the agreement of those men?—No; if you go as far as that, you must go to this extent, that you must then enable the employers to go to the Court for an injunction to prevent A from working his colliery; you cannot separate the two cases.

2349. (*Sir William Lewis.*) And what would be also equally applicable—the power to force all the workmen in a particular pit into their union?—Yes.

2350. Which is a very common thing to do just now?—That part of the programme ought not to be dealt with by anybody who has not given the most careful consideration to it, and thought out all the issues that arise from it. I did not think I should be asked that, and at the moment I have not thought it out, but I give you my own opinion as far as it goes, that I believe that no harm, but that good, would be done by increasing the legal status of trade unions, providing you do it so as to relieve the minority from oppression.

2351. (*Chairman.*) If you would furnish us with any statement in writing of your views on the subject, it would be of great assistance to the Commission?—I would be very glad to do it if the Commission wish. I have no desire to shirk the expression of my individual opinion, and all I wish to do is to put it in a considered form if I do give it.*

2352. (*Sir William Lewis.*) I have spoken to Sir Godfrey and he rather objects to put the question referred to in your *précis* as the matter is still under consideration by the House of Lords?—The only object in my reference to Denaby Main in the *précis* that I have put before the Commission was this: it was an indication really of the evils that result, and which, I think, always will result, from the practice of what is called picketing. I think that wherever you have picketing, you are certain after the attendance for the assumed purpose of imparting information, to have first, probably the veiled threat, and then the overt threat, and if those do not achieve their object you are certain to have the violence behind it, but as a rule they do achieve their object, because the mere knowledge on the part of the man that violence is not unlikely to follow, even if it does not deter him on his own account from continuing to work, will often deter him when he thinks of those he has to leave at home when he is away at his work, and as to that I am strongly of opinion that the practice of picketing in these modern times, if it is adopted and used for the ostensible purpose for which it is used, is of no use at all, and that its only use is when it becomes a means of intimidation, and by that means prevents persons working who otherwise would be willing to work.

2353. (*Chairman.*) Have you anything to say to the Commission as to what is the information which is to be received, or which is to be communicated which is a justification for picketing?—Of course it is difficult to argue as to what Parliament intended when they passed a particular enactment, but my own personal opinion is that when that section was inserted in the Act, Parliament never had in mind that a person's house or the place where he worked should be kept under continual observation day by day by a number of persons.

2354. There is no limit in the Act of Parliament to the time during which it may be done or the number of persons who may do it?—No, but I think there is this; in Section 7

the whole question arises on the exception at the end of the section. The exception is that "attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information shall not be deemed a watching or besetting within the meaning of this section." But the section only intended to authorise that a man's house should be watched and beset for the purpose of imparting information. That is my view; it merely authorises the attending for the purpose of imparting information. Whatever the purpose was which was intended to be served in the information that was intended to be given or obtained I do not know, but now-a-days, as a matter of fact, there is none given. The moment that a strike takes place the whole neighbourhood is made acquainted with the fact; public notice is given by the men, and from their point of view rightly given, that a strike is going on; persons are asked to keep away and not to come and work and interfere, and they know perfectly well what is going on, and there is no information that I can conceive that a number of men have to impart to a person who is anxious and willing to work in defiance of the strike except the intimation that he had better stop.

2355. What information is there that they could receive from the men at work that could justify picketing?—Nowadays I cannot conceive of any.

2356. (*Sir William Lewis.*) Is it not really a blind for the purpose of enabling threats to be conveyed?—It is never anything else. I have had experience of it now for over twenty years, and I have seen it in my capacity as secretary for the owners; I have seen it in other trades in my capacity as clerk to two rather large bodies of justices, and I have invariably seen that, no matter how it commences, it never lasts without sooner or later, and generally sooner than later, developing into what is either covert or overt intimidation; and the difficulty is, when you know that intimidation is going on, and that people are being terrorised to get at the facts—for unfortunately the poor man himself who is intimidated in nine cases out of ten is afraid to come forward and give evidence, because he does not know what will happen to himself or his family afterwards.

2357. And especially his wife and children?—I say his family.

2358. (*Mr. Cohen.*) So that you would suggest that that clause "Attending at or near the house or place" at the end of the section should be deleted?—I think myself that that clause, if it is used for the purpose for which *prima facie* it is intended, is an absolutely useless clause.

2359. I quite follow you that that clause ought not to be inserted because it might sanction practices which ought to be prohibited?—Yes.

2360. (*Chairman.*) Is there anything else you wish to say?—I think not.

Mr. Frederick
Parker
Rhodes.

29 Nov. 1904.

Mr. RICHARD S. TILLING called and Examined.

2361. (*Chairman.*) You are managing director of the firm known as Thomas Tilling, Limited, jobmasters, omnibus and cab proprietors?—That is right.

2362. And of course you have had considerable experience with workmen?—Yes, the business was established by my late father, and my brother and I continued it as a private concern, until it grew to be a very large concern; and then we converted it into a limited liability company, we ourselves being the managing directors, and owning all the ordinary shares, so that we have been in contact with our workpeople for a great number of years.

2363. The first question on your paper is that of picketing: would you state your opinion upon that point?—Yes. I have had some little experience of picketing, because we have gone through two or three strikes, one in the omnibus section of the business, and the others in the cab trade; in two cases out of three picketing was resorted to, and we had some little trouble with the men because of the influence that they brought to bear on those who were really willing to work, and the only chance they had of getting at the men themselves was by picketing the yards. It resolved itself into coercion and the men had to

appeal to us for protection, and in one case, at all events, we had to invoke the aid of a magistrate to protect the men from the attacks of the workpeople who had struck. Our opinion is that if there were not some fear on the part of the men as to the consequences of resorting to violence, violence would certainly be resorted to. That is our experience in the strikes of the past.

2364. Every one, of course, must condemn violence, and consider that violence should be punished by the law, but the question before us is whether what is called peaceful picketing should be allowed, namely, watching and besetting a house for the purpose of peaceful persuasion: what do you say to that?—My opinion is that such a thing as peaceful picketing would sooner or later resolve itself into a violent form of picketing. I do not think peaceful picketing could possibly exist, at all events with the sort of men we employ.

2365. You draw a distinction between peaceful persuading and picketing for the purpose of peaceful persuading; I suppose you would have no objection to one workman persuading another or ten or 100 workmen persuading another?—I do not think it would be fair for ten workmen

Mr. Richard
S. Tilling.

29 Nov. 1904.

* Mr. Parker Rhodes subsequently sent in a statement (*vide Appendices, page 93*).

Mr. Richard or 100 workmen to persuade another ; I do not think that
S. Tilling. would be a fair form of argument. It would be scarcely
29 Nov. 1904. a fair form of persuasion, and it could scarcely be called
persuasion when ten men surrounded another with their
opinions ; in such a case the man ceases to be persuaded,
and he is coerced.

2366. But that is assuming that the house is watched
and beset ; any movement you like, a political, religious,
or trade movement may be followed by 1,000 persons,
and when a man first joins he might say that he has been
peacefully persuaded by the 1,000 to join ?—Yes.

2367. But if the 1,000 persons beset his house and watch
it in order to press persuasion upon him, that is a different
story ?—That is a different story.

2368. And you consider that in practice there is no such
thing as peaceful picketing, ?—That is my opinion,
decidedly.

2369. You give an instance in your *précis* of the tyranny
exercised by the unions that during the privileged cab strike
two men driving for you had bought privileges, but you were
requested by the Cabmen's Union to dismiss them on the
pain of losing all your union men, and you, of course,
refused to be dictated to : you considered that a very
unreasonable act, I suppose, on the part of the trade
unionists ?—Most decidedly.

2370. It was unreasonable, but because it was unrea-
sonable should it therefore be unlawful in the sense of
being criminal or actionable ?—I think so. I think that
if a man or a body of men go to a man's employer (as we
were) and request that that man should be deprived
of his livelihood (as they did), that should be an unlawful
act.

2371. You are not in favour then of a workman being
allowed to refuse to work with another man ?—No, I do
not think he should.

2372. You think he should be compelled to work ?—
I think the men should be allowed to work one with the
other.

2373. You are willing to employ them both ?—Yes.

2374. But the question is whether the unionist or
unionists are to be free to say : " We will not work with
the non-unionists " ?—I do not know that it should be
unlawful that a unionist should refuse to work with a
non-unionist ; he might do as he liked as far as the em-
ployer is concerned.

2375. Look at the question from another point of view ;
perhaps you would think it unreasonable for an employer
to say : " I will not have anything to do with unionists " ?
—No, I do not think it would be an unreasonable thing
for an employer to say that he would not employ a unionist,
if the unionist interferes with the employer's business.

2376. But, generally, would you think it an unreasonable
thing for an employer, or all employers if you like, to say,
" We will have nothing to do with unionists on our pre-
mises " ?—I think it would be an unreasonable thing
for him to say if the unionists did not interfere with him
in any way, and I should not draw any distinction between
one man and the other in that case.

2377. You would think at all events that an employer
should have the right to say, " I will not employ unionists,"
or " I will not employ non-unionists " ?—Decidedly.

2378. And therefore an employer can without a word
dismiss all his unionist employees if he likes ?—Yes.

2379. And those unionists he dismisses will have no
right of action against him ?—No.

2380. In the same way do you not think the unionists
have a right to say to the employer, " We will not work
for you " ?—Undoubtedly.

2381. Whatever their reason is ?—Whatever their
reason may be.

2382. Do you think the unionist leaders, by whatever
name they go, should also be free to advise the workmen
to strike or not for any reason ?—I think they should be
free to do as they like as far as that is concerned, so long as
they do it in a proper manner.

2383. Do not say " proper " ; will you say " as long as
they do it lawfully " ?—As long as they do it lawfully,

but there are certain methods which could bring about
that state of things which would be decidedly unlawful
or unreasonable.

2384. Can you give any instance of that ?—I would
give the instance of men bringing an undue amount of
pressure upon their fellow-workmen, just as I, an
employer, might go to other employers and ask them
not to employ certain men. I think that would be a
decidedly unreasonable thing for an employer to do.

2385. You will use the words " unreasonable " and
" proper " and I ask for those to be rejected ; will you
say " lawful " ?—I do not quite know what is lawful
and what is not ; I am only dealing with what in my mind
should be lawful or unlawful.

2386. I will put the question in this form : Do you
think that it should be open to the Judges to say that
" Such and such action may not be unlawful in itself,
but we consider it so unreasonable that we shall either
punish you for it or you shall be pecuniarily answerable
for it in an action " ?—Yes

2387. Do you think that would be a good law for such
workmen as you have to deal with ?—Yes, decidedly.

2388. Do you think they would be able to govern their
conduct by it ? Supposing there were such a thing as a
law that they might strike, but if they struck unreason-
ably they should be liable to an action ; do you think that
would be a law which would be intelligible to work-
men ?—I think a workman should be at liberty to strike,
but if he were to strike without giving his employer
proper notice—

2389. That is a different thing ; that is a breach of the
law ?—Yes.

2390. But as to this particular case which you men-
tion that was highly unreasonable on the part of the trade
unionists, or you assume that it was, should it on that
account be considered actionable ?—Certainly, I think
it should, because I think it should be an unlawful thing
for them to do. They were endeavouring to coerce me
just the same as if I were to go to another employer
and say : " You shall not employ those two men ; they
shall not earn a living." Those men (the union officials)
came to me and intimidated me, or tried to do so, that I
might dismiss those men and prevent them earning
their living, and I say that should be an unlawful action.

2391. The word coercion, you will admit, is an ambi-
guous term ?—Yes.

2392. If the unionists (we will say they form 90 per
cent. of the trade) go to an employer and say to him " you
must dismiss the ten non-unionists," the effect of that is to
compel the employer to part with the ten non-unionists
and to compel the ten non-unionists to lose their labour
or join the union ?—Yes.

2393. Do you think that ought to be unlawful coercion ?
—I think so, decidedly.

2394. Take another case : supposing the ninety unionists
said to the employer, " We think that our wages should
be raised from 28s. to 30s.," and the employer says, " I think
that is unreasonable," and they strike ; the employer
not being able to get other men is obliged to give way,
he is coerced. Would you make that punishable or action-
able on the part of the unionists ?—I should not go so
far as to say that.

2395. Why not ? What is the difference between that
and the former case I have given you ? If a workman is
at liberty to say " I will not work unless you pay me
30s.," why should he not be at liberty to say, " I will not
work for you if you ask me to work with those unionists " ?
—This particular case I have quoted does not seem to be
quite the same.

2396. Will you answer the question with reference to
the supposed case ?—Your question is, supposing a body
of men were to combine together and say that they would
not work for less than a certain wage. I say they have
a perfect right to do as they like, so far as that is concerned.

2397. But what I wish to point out to you is that the
action of every strike, and therefore every lock-out, is
coercion ; the object is to coerce ?—Undoubtedly.

2398. Then I ask you in what cases should that coercion be considered unlawful or actionable, and in what cases should it not be so considered? What is the test of the thing being unlawful?—I am afraid I can scarcely answer that question; in the one case the men are combining together for a certain object, which I take it they have the right to do, but they are not trying to coerce men of a different opinion.

2399. Yes, they are trying to coerce the employer, who is of a different opinion, and their action may be utterly unreasonable?—Yes, I am afraid I have not considered that question and it is a very difficult one.

2400. You know what the Taff Vale decision means?—Yes.

2401. Do you think that ought to remain?—Mine is not a legally trained mind, and I look at it from the employer's point of view, and so far as I can judge of the merits of the case the decision was a very just one.

2402. You are of opinion that if the workmen through their union, or the union through its agents, do an unlawful thing towards you as an employer, or towards other workmen as workmen, which causes damage, the union and its funds ought to pay for it?—Most decidedly.

2403. You do not recognise that there is any argument to the contrary?—Not at all. I take it the employer and

employed should be in that respect, as far as they are able, *Mr. Richard S. Tilling.* on the same footing; the employer, if he did an unlawful thing, would be liable to be punished in damages.

29 Nov. 1904.

2404. I see you attribute a good deal to the action of agitators?—Yes.

2405. Have you considered this question: If workmen are to be allowed to strike for any purpose should the persons whom they have chosen to advise them be free to advise them to strike for any purpose?—I think they should be free to advise them, but unfortunately their advisers are sometimes very improper men.

2406. Have you anything further you would like to say?—I think not. As far as my fifty odd years' experience goes, I have been brought into personal contact with the men themselves, and in each case I have found that I have been justified in describing these men as agitators rather than as leaders. In the last case we had in the omnibus world in which a strike was averted, it seemed to be the policy of those men who have described themselves as leaders to discover amongst the men imaginary grievances which the men themselves had possibly no idea of, and which a five minutes' representation or personal conversation with the employers would have put an end to, which it did in their particular case.

2407. Do you wish to put all agitators into prison or to mulct them all in damages in the Law Courts?—No, I do not wish that, as long as they are only advising the men for their own good.

TWENTY-FIRST DAY.

Wednesday, 30th November, 1904.

PRESENT:

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Bart.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.

ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHEBSOLE, Esq., M.A., LL.M. (*Secretary*).

Sir ANDREW NOBLE, Bart., K.C.B., called and examined.

2408. (*Chairman.*) You are the senior partner, I think, of the well-known firm of Sir William Armstrong, Whitworth and Company, at the Elswick Works?—I am the Chairman of the Company.

2409. I think the secretary to this Commission communicated with you and sent you the various proposals that have been made in the Bills submitted to Parliament for a change of the law in connection with the matters we now have under consideration?—Yes, he sent me the Bills. (*Vide Appendices, pp. 7 and 8.*)

2410. You prepared a statement of your views on the subjects raised thereby, and you now put them in as a considered statement?—Yes, it is as follows:—

The Engineering Employers' Federation comprises in its membership the large majority of engineering employers and employers in allied trades.

The membership consists of 865 firms located in different districts of England, Scotland and Ireland.

The total wages paid by federated firms amount to about £25,000,000 per annum to their employees, who number about 500,000.

In the engineering departments alone, the wages paid exceed £14,000,000 per annum.

The federation has given serious consideration to the subject of trade disputes and trade combinations, and the law relating thereto, and also the suggested modifications thereon, and has prepared this statement, which it is thought will be of some assistance to the Commissioners in their deliberations.

The Federation desire it to be noted that in approaching Sir Andrew the subject it has kept prominently in view the undesirability of dealing with this important question from a strictly partisan standpoint, preferring rather to adduce evidence to demonstrate the manner in which trade disputes may be minimised, if not avoided, by the friendly negotiation between employers and their workmen.

30 Nov. 1904.

The evidence now submitted may be divided into:—

I. Conduct of trade disputes prior and subsequent to the decision in the Taff Vale case.

II. Prevention of trade disputes.

III. Effect of a return to former conditions.

I. CONDUCT OF TRADE DISPUTES.

In dealing with the subject, the following points will be taken up:—

(a) Picketing, besetting, intimidation, etc.

(b) Status and liabilities of trade unions as corporate bodies in relation to the actions of their members.

The state of affairs prior to the Taff Vale case may, with advantage, be compared with the altered conditions since the decisions of which the trade unions complain.

(a) *Picketing, Besetting, Intimidation, etc.*

In Section 7 of the Conspiracy and Protection of Property Act, 1875, the law as to picketing, etc., is thus laid down:—

“(7) Every person who, with a view to compel any other person to abstain from doing or to do any act

Sir Andrew
Noble, Bart.,
K.C.B.

30 Nov. 1904.

which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—

- " 1. Uses violence to or intimidates such other person or his wife and children, or injures his property; or
 - " 2. Persistently follows such other person about from place to place; or
 - " 3. Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof; or
 - " 4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or
 - " 5. Follows such other person with two or more other persons in a disorderly manner in or through any street or road,
- " shall, on conviction thereof by a court of summary jurisdiction, or an indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.
- " Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section."

Attending or picketing merely in order to obtain or communicate information is thus declared not to be unlawful. But a desire has been exhibited to regard this exception as including "peaceful persuasion" by pickets, and as permitting the communication of information for such a purpose, provided no violence or threat is used. As to this, reference may be made to the opinion of Lord Lindley in the recent case of *Quinn v. Leatham* :—

"It is all very well to talk about peaceful persuasion. What may begin as peaceful persuasion may easily become, and in trade union disputes generally does become, peremptory ordering, with threats open or covert, of very unpleasant consequences to those who are not persuaded."

A single individual cannot resist a crowd, and "peaceful persuasion" when expressed in the words of a dozen men addressed to one man is not advice, but command. The menace of numbers and of movement is greater than that of words.

In the engineering trade many examples have been afforded of the extent to which picketing may be exercised to prevent workmen during a strike from obtaining employment, or to compel them to leave their employment after they had actually been engaged.

Any number of instances can be cited from documentary evidence if desired, but meantime a few, taken at random, may suffice here.

The following cases are given in chronological order, and attention is specially directed to the effect of the recent Judicial Decisions :—

(1) Hull Strike.

In March, 1901, the Friendly Society of Ironfounders made a claim on Hull engineering employers that a moulding machine introduced into the foundry should be operated by their members exclusively. As this was work that could easily be done by an ordinary unskilled labourer, the employers declined. The society thereupon ordered a strike against the firm, and twenty-seven men went out. The works were closely picketed, railway stations were watched to await the arrival of trains bringing workmen to replace the strikers, who on arrival were interviewed, told of the dispute, and warned of serious consequences if they started work. The report of a press interviewer with one of the pickets was to the effect that if the "warned" men were discovered by the pickets at the works, the "leaders would not be answerable for them," and that "if the men proceed to work, they will have to bear the consequences." Police protection had to be afforded to these men at the railway stations, on their way to the works, and at the works, and many of them had to be housed and fed within the gates. Several acts of violence were committed, and as opportunity arose the new men were assaulted by the strikers, in some cases seriously, and on almost all occasions were followed by a

hostile crowd. On 13th June, 1901, nineteen summonses for intimidation, violence, and besetting, were called in the Police Court. Fines or imprisonment followed the summonses for "intimidation," but those for "watching" and "besetting" were dismissed. Several more cases for assault were heard in the Police Court on 11th July, when the magistrate deferred judgment and suggested a conference in his presence between the employers and the society, along with their counsel. At this conference the employers proposed that if the pickets were withdrawn the embargo on the strikers obtaining employment from other associated employers during the strike would be cancelled. The society at that time refused to agree to this, but a month later they accepted the proposal, and a further conference was arranged. In the interim, the *Taff Vale* and *Quinn v. Leatham* cases had been decided, and these judgments no doubt influenced the society to come to a settlement. This dispute was inaugurated and conducted as a society dispute, and on 15th August, 1901, it was adjusted by the society abandoning the claim they had made. Had it not been for the legal decisions referred to, it is believed that the aggressive proceedings would have been prolonged by the trade union. Numerous examples of coercive intimidation during this strike could be given.

An instructive fact is that very few of the strikes which have taken place since July, 1902, have been characterised by the bitter feeling between strikers and their employers, and in none have picketing and intimidation reached the height previously experienced in trade disputes. This does not mean that picketing is now unknown, but that strikers and their adherents take care to keep their actions within the limit of the law.

(2) Leeds Strike.

The most serious strike which has lately taken place in the engineering trade was in September, 1901, at Leeds, in the works of Messrs. Henry Berry & Co., Ltd. The engineers employed by this firm objected to work on the "One Break" system, unless the normal working week were reduced. Under this system workmen have breakfast before starting their days work, and there is thereafter only a single break in the working day, viz. :—dinner-time. In terms of the agreement of 1898 between the Employers' Federation and the Amalgamated Society of Engineers, the question was first discussed direct with the men concerned, but no settlement was arrived at. The matter was then taken up in confidence between the Employers' Local Association and the Local Officials of the society, and thereafter in conference between the Executive Board of the Employers' Federation and the Executive Council of the society; but in both cases without a settlement. In the beginning of September, 1901, about 160 men, both union and non-union, went on strike on the refusal of the employers to reduce the hours while the system was in operation. Pickets were put on, but workmen were introduced to take the plant of the strikers, and the work of the establishment was carried on. In November, 1901, the majority of the non-society men returned to work on the firm's conditions, but the dispute was not terminated until May, 1902. During all this time, there occurred, however, no case in which the action of the pickets came in conflict with the law.

The moderation in the attitude of the strikers was doubtless due to the legal decisions already referred to, which enabled the employers to keep their business going by employing men willing to work on the "One Break" system. Under the system of picketing which was usual prior to these decisions the workmen might have succeeded in stopping the business entirely, although there were hundreds of competent men willing to work on the terms of the employers.

The effect of these decisions is the concrete application of the proposition laid down by Lord Lindley in *Quinn's case* :—

"The plaintiff had the ordinary rights of a British subject. He was at liberty to earn his own living in his own way, provided he did not violate some special law prohibiting him from so doing, and provided he did not infringe the rights of other people. This liberty involved liberty to deal with other persons who were willing to deal with him. . . . But a person's liberty or right to deal with others is nugatory unless they are at liberty to deal with

him, if they choose to do so. Any interference with their liberty to deal with him affects him."

That is to say, there does not appear to be any reason in law or in equity why, in the event of a strike, and of other workmen being willing to take the place of the strikers, an employer should not be at liberty to employ such workmen, nor why they should not be permitted to pursue their calling in their own way without molestation.

In very many cases the efforts of strikers have been directed towards the intimidation of non-union men not bound by the orders of the society and willing to take the employment offered to them.

The position of non-union men has thus hitherto been one of great difficulty, owing to the injustice with which they have had to contend. Not only is their liberty to work during a strike interfered with, but attempts have been made with varying success to prevent non-union men from obtaining employment even where no dispute exists, in order to compel them to join a union. In some trades an employer is not at liberty, on pain of losing his union men, to employ non-union men at all, even as foremen. As workmen have the right to work or not as they please, they have unquestionably the right to belong to a trade union or not as they think fit. Their right to earn their living should not be in any way dependent on their attachment to a society.

(b) Status and Liability of Trade Unions.

The status of trade unions is determined by the Trade Union Act of 1871, but previous to the Taff Vale decision, trade unions were treated as irresponsible bodies not penally liable for any act damaging to others. The result of this erroneous position was frequently an aggressive attitude on the part of the unions, whose demands on individual employers, or even on small associations of employers, were in consequence almost irresistible irrespective of their justice or equity. In many cases union workmen quite willing to remain at work, and having no dispute with their employers, were ordered on strike by the officials of their society. A still more objectionable course frequently adopted by members of the societies was to select some critical moment in the course of their employment and leave their work in a body, without any intimation of their intention to do so.

A striking case of such oppressive action is disclosed in the following report:

"The heavy soleplate of a large marine engine was being lowered through a narrow hatchway on board a vessel. This could only be done at high water, and the soleplate had to be guided carefully into its place. The operation began an hour before stopping time, but was delayed by some hitch, and when the whistle blew at 5.30 p.m. the soleplate was only three-fourths down. A few minutes more would have finished the job, and placed the soleplate in a position of safety, but immediately the whistle sounded, off went the fitters, ignoring the request that they would wait but a few minutes and get the plate into place in case of accident. The fitters were old employees of the firm, and would have been perfectly willing to stay to complete the job, but the orders of the union were imperative, and they left."

In the Hull case already cited, the whole initiation and conduct of the dispute were controlled by the society; and only when the Taff Vale decision was announced, and the society was placed under certain possible obligations, was the strike abandoned.

By recent decisions the unions and their funds are found to be liable to legal proceedings and subject to claims for compensation, if their acts have caused damage to others.

The unions as corporate bodies are declared to be on the same footing as private individuals and corporations, who, if they cause damage, are liable to make it good. There is no necessity to alter this. There does not appear to be any reason whatever why trade unions should be placed above the Common Law, which imposes responsibility for wrongful acts on all other corporations and individuals all over the country and in all classes of life.

In referring to this point, Lord Macnaghten, in his opinion in the Taff Vale case, asks the question—

"Has the legislature authorised the creation of numer-

ous bodies of men capable of owning great wealth, and of acting by agents, with absolutely no responsibility for the wrongs they may do by the use of that wealth and the employment of these agents?"

The logical reply is that just as private individuals are responsible for their servants, so should be trade unions.

The effect of this decision has been a marked improvement in the attitude of certain Unions in the conduct of trade disputes, but sufficient time has not yet elapsed in order to ascertain to what extent the effect may be sustained.

II. PREVENTION OF TRADE DISPUTES.

In the engineering industry the epoch of change dates from the agreement effected between the Federated Engineering Employers and certain Allied Trade Unions in January, 1898, and to this the attention of the Commission is specially directed.

On the termination of the strike arising out of a claim made by the workmen for an eight hours' day, certain provisions were mutually adjusted for the purpose of avoiding future disputes.

The provisions are as follows:—

"With a view to avoid disputes in future, deputations of workmen will be received by their employers, by appointment, for mutual discussion of questions in the settlement of which both parties are directly concerned. In case of disagreement, the Local Associations of Employers will negotiate with the Local Officials of Trade Unions.

"In the event of any Trade Union desiring to raise any question with an Employers' Association, a meeting can be arranged by application to the secretary of the Employers' Local Association to discuss the question.

"Failing settlement by the Local Association and the Trade Union of any question brought before them, the matter shall be forthwith referred to the Executive Board of the Federation and the Central Authority of the Trade Union; and pending the question being dealt with, there shall be no stoppage of work, either of a partial or a general character, but work shall proceed under the current conditions.

Note.—A grievance may be brought forward for discussion, either by the workman individually concerned, or by him and his fellow workmen, or by the representatives of the Union."

The order of friendly discussion in conferences is three-fold—

- (1.) Conference between the Employer and his own men; and failing settlement, then
- (2.) Conference between the Employers' Local Association and the Local Officials of the Trade Union, and again failing settlement,
- (3.) Conference between the Executive Board of the Employers' Federation and the Central Authority of the Trade Union.

Until the procedure of conciliation has been completely exhausted, resort cannot be had to hostilities by either side.

Each successive stage of the proceedings removes the question at issue further from the parties directly concerned in it. The success of the provisions is in great measure due to the fact that questions which, if dealt with solely by the parties concerned, would soon reach an acute stage, are transferred for the consideration of representatives of both parties having no direct interest in the particular dispute. The ultimate discussion of the question is left to the highest official representatives of the contending parties, by whom the question receives calm and dispassionate examination.

The principle of collective bargaining is thus fully admitted. These representatives from their experience of such work of conciliation, and being themselves engaged in the same industry and therefore well acquainted with its customs and with its requirements, are better able than others to appreciate the gravity of the points at issue, and to foresee the effect of allowing a rupture to take place; and they are in the best position to weigh the rights and claims of both sides. In very few cases have disputed questions run the whole course of this procedure without some way having been found out of the difficulty.

Sir Andrew Noble, Bart., K.C.B.
30 Nov. 1904.

The difference between this method and the ordinary mode of arbitration is evident, and on no occasion has it been found that the absence of outside arbiters was detrimental to any of the interests of those concerned, where not matters of fact, but questions of principle, were the subject of inquiry.

It is to be noticed that these provisions do not provide an ultimate tribunal beyond which there is no appeal. Should a settlement be arrived at by any one of the three

conferences the difficulty at once disappears. Should a settlement not be arrived at by the Executive Board, the question reverts to the original appellants to be dealt with finally by those directly concerned in the dispute.

In some cases no settlement has been arrived at in conference, but in extremely few cases have hostilities followed. The following table shows what success has attended the working of the provisions as a means of conciliation, viz :—

Result of References to the Central Authorities of Employers and Workmen under the Provisions for avoiding Disputes, from January 1898 to 1st October 1903.

Year.	(a) Total number of questions dealt with including questions noted under (b).		(b) The following questions involving general alterations in Wages are included in (a).	
	Total.	Of which were followed by Strikes.	Number.	Of which were followed by Strikes.
1898	8	—	3	—
1899	6	2	5	2
1900	16	1	4	1
1901	15	2	7	—
1902	22	—	3	—
1903	9	2	5	1*
Total	76	7	27	4
Percentage of Strikes . . . 9.21			14.81	

* N.B.—This Strike was commenced locally in defiance of the decision of the Council of the Trade Union.

In addition to the foregoing, many other questions which under the old order of things would in all probability have resulted in stoppages of work have been peacefully dealt with and settled by local conferences.

The change which has thus been effected is most marked and it is especially worthy of note that this has been brought about not by any Act of Parliament, Court of Law, or Court of Arbitration, but solely by the operation of a mutual agreement, framed in a common desire that work should proceed uninterruptedly and that the relations between employers and their men should be preserved on amicable terms.

The effect of strikes is not always fully appreciated. Sectional strikes involve usually suspensions in trades not directly interested in the dispute. Where a stoppage takes place in one trade in an establishment the other trades are frequently unable to continue operations, all the trades being mutually dependent. Thus it is that workmen having no interest in a dispute may be thrown out of employment while the stoppage lasts.

On the markets, both home and foreign, stoppages of work have a far-reaching effect. Not only is the immediate result to be deplored, but a feeling of insecurity is brought about which prevents orders being placed where no guarantee of continuous employment can be given, and the confidence of consumers has been shaken.

The intention of the framers of the agreement was to prevent the stoppage of work and to ensure that disputed questions arising might be settled in a friendly way.

Since 1898, disputes with members of the Allied Trade Unions have been few and of no great significance.

On trades not parties to the agreement the effect has been to demonstrate the great advantage of open discussion and amicable settlement of questions raised. Year by year this procedure is becoming more recognised, and, with only a few exceptions, no serious stoppage of work has taken place in any of these trades.

Over the whole industry trade has been carried on with little interruption. Employers and workmen have benefited and the unions are adding steadily to their resources, in one instance so much as £64,000 per annum.

The result of the process of conciliation and the uninterrupted carrying on of work has been a benefit not only to the employers and workmen immediately concerned, but to the whole trade of the country and particularly to

the engineering industry, in which there is now a feeling of greater security than existed prior to the agreement.

It is further worthy of note that foreign orders are now being placed in this country to an increasing extent, and this is undoubtedly due in great measure to a renewed confidence in the industry and a feeling of security that by the uninterrupted progress of work the obligations undertaken will be fulfilled.

The contention of the deponent is that in place of endeavouring to improve industrial relations by amendment of statute, or by repeal of judicial decisions, more earnest attention should be devoted to methods of promoting conciliation, and of at the same time leaving the settlement of disputes in the hands of the parties concerned or their authorised representatives.

III. EFFECT OF A RETURN TO FORMER CONDITIONS.
To abrogate the judicial decisions referred to would be a direct inducement to revert to the previous unsatisfactory state of affairs, would stir up again hostile feelings between employers and employed, would render of no avail all the efforts which have been made towards conciliation in this and other countries, and would bring about a state of uncertainty in trade which would be detrimental to all our industries and which would entail an amount of misery on workmen and their families which those who advocate a return to the former conditions do not thoroughly appreciate. During the past five years wages have increased, and the men have profited accordingly. A return to the former position would sweep away all the feeling of security, and would present the country with a very serious problem. The *Taff Vale* and *Quinn v. Leatham* Decisions are merely declaratory, and do not import any new principles. They simply set forth that trade unions are and must be under the laws which regulate all human intercourse. The agreement between the Federated Engineering Employers and the Allied Trade Unions does embody a new principle, the value of which, as proved by experience, forms a sufficient reason why that principle should be encouraged and extended in application until the desire for legislation for the conduct of trade disputes will disappear. It is not probable, of course, that strikes will be entirely prevented, but a feeling of friendly co-operation between employers and workmen can be so developed as to reduce industrial warfare to insignificant proportions.

2411. If there is anything you would like to add to your statement, I should be very glad to have it from you?—There are one or two things that I think might have been rather more distinctly put, and one is with reference to the fact that in comparatively recent years a far larger number of strikes in the north eastern district were due, not to disputes between the employers and the employed, but between different trades among themselves. I felt that so strongly that I got a list made out of the number of strikes which were due to no dispute between the employers and the employed, but were simply between the different unions, and the loss inflicted on the employers by these disputes was an exceedingly serious one. I see that between 1890 and August, 1903, there have been no less than twenty-four serious strikes, some of them lasting a very long time, and inflicting considerable loss upon certain employers, and if you wish it I can put that statement in. (*Statement marked "Synopsis of Demarcation Cases" was handed in Vide Appendices, page 74*) Perhaps it might be desirable not to read out all that is written in this statement, but I will just mention what the disputes arose from. The first was Fitters v. Plumbers, and the disputes were regarding iron pipes, as to which trade should do the work.

2412. Will you just explain that to us? There being a dispute between the fitters and plumbers as to which trade should fit the iron pipe, what was the practical effect as regards the employers; what did they do?—If, for instance, a plumber was put to it the whole of the fitters in the works would go out, and frequently the whole of the fitters in a district.

2413. (*Sir William Lewis.*) And *vice versa* if the fitters were put to do it, the plumbers went out?—Yes, and that happened again and again. The second was between the blacksmiths and boilermakers—both powerful unions—regarding ladders, platforms, hand-rails, or welded rings round ventilators.

2414. (*Chairman.*) Was the unfortunate employer for the moment in this position—take the pipe instance—that if he gave it to the fitter the plumbers went out, and if he gave it to the plumber the fitters went out?—Yes, that was the point.

2415. In fact he was between the fitter and the plumber, instead of the usual expression?—Yes. The first dispute was between the fitters and plumbers, and the second between the blacksmiths and boilermakers, and the effect on the employer was the same. The third one was pattern makers versus joiners, regarding the classification of the work to be done by these two trades in an engine works. The pattern makers claimed some work that joiners could very well do, and generally the end of it was that both went out. The fourth was as to the manning of the horizontal boring machines; the employers claimed that they had full liberty to fix the class of works, and that was finally carried. The fifth was the working of lathes and grinding gauges. Now a great deal of the work of grinding gauges, until you come to the very finish of it, may be done by a very inferior class of men, and the Amalgamated Society of Engineers, I think it was, insisted that skilled mechanics should do the whole. We had a good number of interviews and the employer's view was finally enforced by the Federation. Then there was the working of boring machines; that is practically the same thing, and they insisted that a high class of labour should be put on, while it could be done by a very inferior class of labour. Then there was the Amalgamated Society of Engineers versus the sheet iron workers, with regard to bends in connection with railway water cranes fitted to join wrought iron pipes. That was the same thing, and finally the Amalgamated Society of Engineers abandoned the claim. I ought to explain that perhaps owing to the magnitude of the works of which I am chairman we have been able to carry very many things that smaller employers are not able to do. I may mention as an illustration, for instance, that during the great strike that took place eight or nine years ago, when so many men were out for a long time, we had no less than 10,000 men employed during the whole time, while nearly all the engineering works in Newcastle were stopped. Now, one of the important points in that strike was due to a Hull firm—I forget its name at the moment—starting a milling machine, and they wrote to us to ask our opinion

about it. We told them that we had introduced them very early, and that we had had hundreds of milling machines at work at Elswick for years, and at not one of these machines was there a turner or a high class machine-man employed, as it was not at all necessary. We were never interfered with in that matter. *Sir Andrew Noble, Bart., K.C.B.*
30 Nov. 1904.

2416. Was the gravamen the actual introduction of the machine or the class of man used at the machine?—They insisted that a milling machine which could be worked with ease by a semi-skilled man at from 25s. to 28s. a week should be worked by a man at 36s. to 38s. a week and that was the point. That was the class of work that caused this dispute of the Amalgamated Society of Engineers versus machine men as to the working of a capstan lathe. There was another one, the Amalgamated Society of Engineers versus the united pattern makers upon the working of an iron turning lathe, and that question was finally dropped after some time. In June, 1900, there was a dispute, the boiler makers versus fitters, as to the water testing, etc., of Belleville boiler tubes; the boiler maker claimed the work, but the matter was finally dropped by them. Another question was respecting the working of pneumatic chipping tools. That was a question raised by members of the Amalgamated Society of Engineers versus the labourers, and that was dropped. There are several others on the question of labourers and machine men, and I will not read the three next, but generally after some question the claims were dropped. In 1902 there was a question between the boiler makers and the drillers; that again was respecting the working of pneumatic drilling machines on boiler work, and in this particular case the firm discontinued the use of tools after they had commenced using them, pending the question of machines in boiler shops being dealt with by the Federation. Then the pattern makers versus wood turners: the pattern makers contended that at the end of a strike in 1893, against the wood turners, the employers suggested that in the event of the man leaving his employment, or being discharged, his place should be filled by a pattern maker. In this particular case the man in question died, but the Association decided to recommend the firm to agree to the request of the society for the present, but reserving to themselves the right to reopen the question at any time. Then there was a dispute, Amalgamated Society of Engineers versus the boiler makers as to chipping and fitting cast iron doors on gas producers, and in that case the design of the work was altered to avoid dispute. Then the plumbers versus copper-smiths, a dispute about work again, and finally the claim raised was abandoned.

2417. Seeing you have put in that statement, I do not think you need give us further detail?—I think that is perhaps the best course.

2418. (*Sir William Lewis.*) All those appear to be interferences with the management and not any question in dispute with the actual employer?—As a rule we did not hear of it at first; the dispute was between themselves and finally they gave notice that they would leave work; that was done.

2419. (*Mr. Cohen.*) Were those disputes before 1898 or afterwards?—The dates are all given in the statement; the disputes I have been referring to are from 1890 to May, 1903.

2420. (*Chairman.*) I should just like to ask you one general question. In the paper you have put in you have expressed your opinion perfectly clearly that it would not be an advantage if the law was altered so as to abrogate the effect of the decisions in the *Taff Vale* and *Quinn v. Leatham*?—I think it would be a very serious thing indeed for employers. I do not know whether the employers' association is not a trade union as well, but it seems to me exceedingly wrong that any society of any sort should be put outside the general law of the country.

2421. But although I think I can gather what your view is I do not think you have actually said categorically in the statement what would be your view as to any enlargement of the opportunities for picketing. You are aware that the Bills amongst other prior proposals contain the proposal to allow what is called peaceful picketing?—That is impossible; I have had a large experience of it, having been unfortunately for a very long time in what was called the nine hours strike which, if my memory serves me right, was in 1871, and it was called of course peaceful picketing, but it was accompanied with

Sir Andrew Noble, Bart., K.C.B.
30 Nov. 1904.

threats of violence that rendered it impossible for men to take any employment in any of the firms struck against. Man upon man came privately and told us that it was impossible, and that their lives were not safe from the threats that were used, and so on.

2422. May I take it that your view as a practical man is that peaceful picketing is a practical contradiction in terms ?—It is.

2423. In your Paper you have set forth at considerable length and with very great clearness, the remarkably good influence that certain conciliation arrangements which have been gone into in your trade have brought about ?—Yes.

2424. And you have pointed out of course that that was entirely done without legislation ?—Yes, that was done without legislation.

2425. Do you think that legislation of any kind could help that result ?—I am doubtful—I should rather doubt it. I have been both President of the North East Coast Association and President of the Federation, and I have had to be present at many discussions with the men, and I must say that as a rule I think, although there may be great differences of opinion, the selections made by the men for their representatives are good. Although one has had very long discussions and did not always agree I must say I never parted with the men I met in that way without having both something of a liking and respect for them ; they were frequently wrong in their views and they rarely came with full powers, in fact I think they have hardly ever come with full powers in recent years, and they have always got that behind them, that whatever they say they have got to go back to their meetings to get approval.

2426. We all know it is inconvenient to deal with people who are not plenipotentiaries, but what I was meaning was rather this ; you have told us how you think good results have happened from these arrangements, and do you think it would be in any way possible by means of legislation to make such arrangements compulsory ? Do you think there is any demand for the law being altered in any way which would help that ?—No, I do not. It might possibly do this, that we might have somebody from the Board of Trade, if we came to a difficulty, to come down and advise, if it were the wish of both parties, but I should think myself that the men would be a little jealous of any interference of that sort.

2427. (*Sir William Lewis.*) You know there is a provision of that kind now, but it is practically a dead letter ?—It is practically a dead letter, I think.

2428. Wherever it has been tried it has failed ?—It has failed, yes. I may say that there is a feeling both with employers and employed that any person sent down from say, the Board of Trade, would suggest a compromise, and if both parties think they are in the right that feeling renders it more difficult instead of more easy.

2429. (*Sir Godfrey Lushington.*) You are connected, I believe, with the Engineering Trades Employers' Federation ?—Yes.

2430. Do you hold any titular office ?—I have been president since its formation.

2431. I think you said it might be a trade union ; is it a trade union ?—I do not know ; that is for the law to say. I merely made the suggestion just now that it might be.

2432. Have you registered it under the Act ?—No.

2433. You have some rules, have you not, as to mutual assistance in the time of strike ?—We have a settlement called the Conditions of Management and that is with the Amalgamated Society of Engineers, and certain societies, but not the whole.

2434. Could you let us have a copy of those ?—Certainly. (*The Rules were subsequently sent in, and Extracts therefrom are printed on page 84 of the Appendices.*)

2435. What happens if there is a strike against one of the firms belonging to the Federation ? What is done by the Federation itself or the other firms ?—I thought I had given most of that information.

2436. On page 3 of your paper (*Vide p. 160, Col. 2, ante*) you say, " At this Conference the employers proposed that if the pickets were withdrawn the embargo on the strikers obtaining employment from other associated

employers during the strike would be cancelled " ?—Yes, if there be a strike a notice is sent to the whole of the firms in the Federation to inform them that certain men are on strike.

2437. Do you send the names of the men ?—Yes, we give the names.

2438. (*Sir William Lewis.*) The names of the men or the names of the firms ?—Both the name of the firm and the names of the men.

2439. (*Sir Godfrey Lushington.*) I suppose you think there should be one law for the masters and the same law for the men ? Is that your view ?—Certainly.

2440. Therefore I presume you see no objection to black-lists on the part of the men ? Do you understand what I mean by black-lists ?—I suppose you mean a list of men who work while others do not, but I would rather have your definition.

2441. A Black-list is a list of the men who have gone in to work for an employer during a strike, at all events it includes those men ?—Are you sure that is the definition ?

2442. I am sure it includes them ?—It may include them, it may also be the men who remain in.

2443. It is the men who remain in during the strike, or the men who take service during the strike ?—In the case I referred to just now during the great strike we had over 10,000 men in the Ordnance works alone at Elswick.

2444. But my question to you now is, supposing a trade union circulates a list (call it black-list or not as you like) of those persons who have taken service or who have remained in the service during a strike and circulates that black-list with the view that trade unionists should refuse to work with them in the future, would you say that that is objectionable ?—I do not quite understand the meaning of your question.

2445. (*Chairman.*) I think the meaning of Sir Godfrey's question is this:—Supposing a trade union or trade unions circulate a list of those persons who in a strike either refuse to go out when the strike has been ordered by the union, and remain in to work, or take service with a firm against whom a strike has been made with the avowed object of letting other union men know who these black sheep are, so that they may refuse to work with them, do you consider that that is a proceeding that is justifiable, or that ought to be struck at by law ?—I think if they did it with threats it should not be allowable, but if they simply sent a list saying, " The following are men who worked when we left," without anything else, I do not know that the law could touch them in any way.

2446. (*Sir Godfrey Lushington.*) You would object, for instance, to anything like placarding the names of the black-sheep ?—Yes.

2447. That would be insulting them and bringing them into contempt, but would you object to the mere information ?—I do not see that the mere information could be touched by the law myself at all, as long as there was no threat, or anything else with it.

2448. (*Chairman.*) Your answer actually was that it could not be touched by the law ; but what we want is not so much your opinion as to actually what the law would touch at this moment, but ought the law to touch it or not ?—Personally, I am quite indifferent whether they do it or not. I do not think myself, if you ask my opinion, that I would wish that altered as long as it was understood that no threat was conveyed in the intimation.

2449. (*Sir Godfrey Lushington.*) You would agree to this, would you not, that the persons sending the list think they have a material interest in doing so, and the persons receiving the list think also they have a material interest in getting the information the list contains ?—I would agree to the Federation or the trade unions merely sending a list of certain men working at a certain place, or on the other hand sending a statement that certain men have left a particular employment, giving their names and using no threat with it, in which case I should not object in the least.

2450. (*Sir William Lewis.*) Simply giving the information ?—Simply giving the information.

2451. (*Sir Godfrey Lushington.*) You object to the circulation of the list if it is accompanied by threats ?—Yes.

2452. Would you consider it to be a threat on the part of the employer circulating his list if he said "I send you these names in order that you may not employ these men during the strike"?—I have no experience of that; I never sent such a list.

2453. I want to know your view of what the law ought to be?—My view is simply that anything of that sort ought simply to be a statement that certain men in the one case are at work and did not come out with the rest during the strikes, or that in the other case, these men were on strike, without remark of any sort. I am against threats of any sort.

2454. Would you consider that if workmen said to you "Unless you increase our wages we will leave your service" that would be a threat?—No, certainly not; and if we say "Unless you take a reduction you must go," that is not a threat either.

2455. And therefore you think the announcement of an intended strike ought not to be considered a threat?—That is quite another thing in the way you are putting it; in the announcement of a strike men are in combination then, at other times each man may act for himself.

2456. I only want to get what your opinion is?—My opinion is that if a certain number of men come to another and say, "Our Society is determined upon going out on this question, and unless you come out with us you are a blackleg, and we shall not work with you"—that is a threat.

2457. Do you think that ought to be punishable by law, or actionable, or both?—Prevented by law. I suppose the particular way of doing it is for this Commission to determine, but it is quite clear, in my opinion, that men who are dissatisfied have no business to coerce other men who do not want to come out.

2458. On another matter germane to this, where there is a strike against one member of your Federation the others assist him or may assist him if they think fit?—They frequently do assist him, that is to say that in order to avoid, except on very grave questions, suffering to innocent men they pay him a certain proportion of what he has lost during the strike.

2459. Do they ever have a joint lock-out?—No, I think not; it has generally been taken out of our hands. Our old custom was, if we had trouble, to commence to reduce our hands, and then the moment that was done the trade unions struck.

2460. If employers are at liberty to assist each other in times of strike, I suppose you would see no objection to workmen assisting each other in times of strike?—Certainly not, if they do it in the same way; if, for example, the boiler-makers choose to assist the Amalgamated Society of Engineers, or any other, I do not think in my experience the employers would ever raise a question.

2461. Supposing there is a strike amongst the blacksmiths, would there be any objection in your opinion to an officer of the blacksmiths' union applying to the boiler-makers to strike in support of the blacksmiths?—I think there would be, but as far as I remember they are not so friendly together, because we have had more than one dispute between these two trade unions.

2462. A. and B. will serve my purpose just as well as the boiler-makers and blacksmiths: is there any objection to one trade supporting another?—I think there is an objection, whether you can prevent it by law I doubt, but there is a strong objection. I do not see why on earth you should ask other people to injure the employers. If the blacksmiths choose to give funds to the other trade union I do not see that we could prevent it, or that it would be right to prevent it.

2463. It may not be common in your trade, but it is common in other trades that there should be a joint lock-out, and that an employer whose hands are on strike should apply to others to lock-out their labourers or workmen in order that they may show common cause together?—If there is no dispute with the other trade I should say that that is improper.

2464. (Chairman.) I think you are a little at cross purposes. You are speaking entirely about the question of one trade and another trade, but Sir Godfrey's last question was not as between two trades, but between more than one employer?—I beg your pardon; the question, as I under-

stood it was taking the blacksmiths and boiler-makers merely as an illustration, the boiler-makers have no grudge or no dispute with their employers, but the other trade has, and if that other trade goes and begs the boiler-makers to interfere in a quarrel with which they have no concern, then I think that is wrong; whether it is illegal or not, I do not presume to say.

2465. (Sir Godfrey Lushington.) Would they ever take a part in a strike unless they thought themselves either directly or indirectly concerned—would workmen strike against employers except they thought they were going to get something from it?—Of course not; I do not suppose workmen would strike against their employers unless they thought they were to get something from it.

2466. Therefore they are concerned in it; they think themselves concerned in it, at all events?—I quite agree upon that point, but the point is why are they to call upon people who have no grudge against their employers, and no question pending with their employers to interfere?

2467. (Chairman.) I think I understand Sir Godfrey's point, and it is this. We quite understand what you have said about the boiler-makers and the other trade, but take this case: Suppose there are employers A, B and C, and suppose for a moment there is only one trade in question, that A's workmen strike against A, and a dispute occurs, what I understood Sir Godfrey to want to put to you is this: he first would ask you whether it has not often been the case that A., the employer, has requested B and C, other employers, to lock out the members of the same trade in order to assist him, A, and then if you answered yes to that?—No, I do not answer yes to that; I have no knowledge of that question. If B and C did lock out, they would only lock men belonging to the attacking trade union.

2468. We will take it you answer no to that, but you quite see that supposing you answered yes, Sir Godfrey would then ask you, which I think was what he meant to ask you, what difference is there between the action of the employers A, B and C in that case and the action of the two trades in the old case you put?—You see the way it has been done is this: I mentioned to you that the action for many years of the men has been something like this; as I said, they have never attacked, except in one or two instances (upon other points), my firm at all, but they used to attack some weak firm, and then they went on from one firm to another until they got a majority of firms, and in that way gained their point. It was for that very reason that our Federation was formed, and it has been successful—in late years very tolerably successful—in avoiding and settling disputes. We must, of course, keep within the law, and as regards this Federation we are one body, and we act as one body on the whole just as the Amalgamated Society of Engineers, which I will take as an instance, do.

2469. (Sir William Lewis.) But you, as one body, deal with a number of representative bodies of the different trades?—Yes, but it all finally comes, as regards the Amalgamated Society of Engineers, which is the largest, to this: that there are various steps in each case removing it from the place of dispute until it finally comes up to be settled in London by the two bodies—the Council of the Federated Employers and the Council of the Amalgamated Engineers, sometimes acting with other societies and sometimes not.

2470. (Chairman.) I would like to get this fact from you: Are there cases where your Federation has locked out as a Federation any particular class of workmen where the actual dispute was only between the workmen in one particular work, which, of course, was that of only one member of the Federation?—I do not think we have ever absolutely locked out. In the case of the great dispute which was called the eight-hours dispute, but which also involved (although that was kept more in the background) the question of the right of employing such class of man as we thought most fitted to do any work that we had to do—when they had attacked a firm in Hull, Earle I think it was, and then gone on to other firms—in that case we gave notice that we would reduce our hands and the whole Federation, such as it then was, did reduce their hands. That was replied to instantly by the Amalgamated Society of Engineers and other societies acting in concert with them withdrawing all their hands.

2471. (Sir Godfrey Lushington.) If you think there is a common interest to be served you would not shrink

Sir Andrew Noble, Bart., KC.B.
30 Nov. 1904.

Sir Andrew Noble, Bart., K.C.B. from reducing your hands or even locking out if necessary ; in fact, reducing is a mild form of locking out ?—I do not agree, but that is another point. What is your question ?

30 Nov. 1904. 2472. My question is if the various employers think they have a common interest you would not see any objection to reducing the number of the workmen ?—There has never been a single case.

2473. I ask you whether you would think there would be any objection ?—I must explain ; there has never been a single case of the employers locking out until it has been in response to a strike. No employer would do that, I think.

2474. (*Sir William Lewis*.) It has only been done in defence, then ?—Simply in defence.

2475. (*Sir Godfrey Lushington*.) Do you think that ought to make any difference in the law whether it is done in defence or by aggression ?—The question raised in the Bills you sent me is the alteration of the law, and what I say is that the alteration of the law as proposed is practically the taking of a certain class of Englishmen out of the control of the law and making them perfectly irresponsible for anything they may do.

2476. To take another point: you complained a good deal that employers had been harassed in consequence of disputes amongst the men with which the employers had no concern, as, for instance, the employment of non-unionists, and, again, from the disputes as to demarcation of trades—you say you have no interest in these questions ?—I do not say that I have no interest in the question of a dispute as to non-unionists ; the principle we go upon is that we say, "We will engage any man who is fit for our work whether he be a unionist or a non-unionist." Individually, my firm have not been harassed on the question of non-unionists.

2477. That means that you have no interest in the question ?—We have every interest in the question if we are forced to turn all our non-unionists out.

2478. You have no interest in the abstract, whether a man is a unionist or non-unionist if he is a good workman ?—Exactly.

2479. The unionists say, "We will not work with non-unionists," and the effect of that is, if they are powerful, that you have to dismiss your non-unionists, and that you object to ?—Yes.

2480. We will start with that. You say, "Is it not hard upon the employers that when they are willing to employ non-unionists just as unionists, because there is a quarrel between the unionists and the non-unionists, you should be put to this inconvenience ?" That is your complaint, I understand ?—I have not made the complaint, because at Elswick that has not been said, but what I do say is that if a unionist comes to me and says, "We will not work with you because you are employing non-unionists," I complain of that as that is an attack directly against us as well as being a dispute between the unionist and non-unionists.

2481. So far as you are concerned in the abstract, you would just as soon employ a non-unionist as a unionist ?—If he is an equally good man. I fail to see what answer I can give except that.

2482. You can understand, can you not, that the unionists from their point of view have a different notion of the matter ?—Yes, of course I understand that.

2483. They think that they are prejudiced by the employment of non-unionists ; do you agree ?—No, I do not agree ; they are not prejudiced at all. The point, I suppose, that you are questioning me upon is this, that the contention is that the unionists have a perfect right to force the non-unionists either to join their union or to go, and I say I object to that.

2484. I want to sift the matter a little. I ask you whether you did not admit that the unionists have a notion, whether right or wrong—wrong, if you like—that they are prejudiced by the employment of non-unionists ?—No, I do not agree. Of course I agree that if by the action of the unionists we had to reduce the number of hands largely it might be that the wages of the unionist would be very greatly increased.

2485. Forgive me, I am for the purpose of this inquiry quite ready to admit that the unions are altogether

wrong in their contention. Supposing they are wrong, nevertheless they think they are right ?—Yes, I see, but I dispute the right.

2486. Supposing that the unionists (which you have admitted) think, rightly or wrongly, that they are prejudiced by the employment of non-unionists, you, as an employer, are employing non-unionists ?—Yes.

2487. Is it not logical for them to think that you, by employing non-unionists, are acting prejudicially to them as unionists ?—No, in that sense unionists and non-unionists applying for work prejudice equally those who are at work.

2488. Why not ?—Because every man has a right to get work. If two men apply for employment it cannot be said that one man is prejudicing another unless he does or says something illegal.

2489. I am not discussing whether they are or are not, in fact, prejudiced, but they have the notion that they are prejudiced ?—That may be ; I quite grant that they may think it.

2490. And if they think that, then they will also think that you, in employing non-unionists, are acting to their prejudice ?—They may think it if they like, but it is not so.

2491. That being so, are they not entitled to strike against it ?—No ; they may have a right to strike, but I am putting it on a different footing altogether.

2492. You said, "No." Do you mean by that that you think it is very unreasonable on the part of unionists to do so, or do you think that what they would do is unlawful or ought to be unlawful ?—I think if they tried to persuade other men who were perfectly content with their situation to come out by using threats that should be unlawful, or even leaving out the use of threats, I do not think they have any business to do that, and it ought to be provided against ; that is to say, that unionists or their officers should not persuade men to come out by way of injuring their employer, and I think that ought to be provided against. I am not very strong about it, because I do not think it has been a serious question, but still I think it ought to be provided against.

2493. Supposing the unionists ask for a rise in their wages of 30 per cent., and your opinion is that their wages instead of being increased ought to be decreased ?—That question for a different percentage was settled yesterday.

2494. Supposing you think that the proposal is utterly unreasonable and that they threaten to strike and do strike, putting you to great inconvenience and loss, do you consider that that conduct on their part is unlawful ?—Not if they choose to go out themselves, but if they make anything like a conspiracy to get others to come out, then I think that would be considered generally unlawful. Any man or number of men have a perfect right in a case of that sort to do whatever pleases them—to go or stay.

2495. Is it your opinion that workmen should be free to strike, but that they should not be free to ask others to strike ?—Yes, I think it is.

2496. You think that the latter should be unlawful ?—I think that it should be unlawful to do it in the form of—I will call it a conspiracy—to get men to strike. I am not lawyer enough to put exactly how far the law goes in that matter.

2497. (*Sir William Lewis*.) By inducement or threats ?—By inducement or threats.

2498. (*Sir Godfrey Lushington*.) If a trade union resolves that it is time to strike for an increase of wages, any delegate who goes round to give the word of order to the workmen that they should strike, you think, is doing an unlawful act ?—If he is doing it by inducement or threats.

2499. I abandon the threats. I give up that ?—My opinion is that simple inducement would not have much effect, but I must go by experience, and I have never known any of these things go except accompanied by threat.

2500. How could there ever be simultaneous action in a large trade like coal mining, if the officers of the union, or if workmen, were not permitted to go round and induce persons to strike ?—If it be simple inducement, if a man says to another man, "You know we ought to have an

advance and we will ask for an advance," that you could not consider as a conspiracy; but if he says, "You must come out, you know, and you know what will happen if you do not," which is the usual form, I say that ought to be provided against. Whether it can be is another matter, but it ought to be.

2501. You think that any intimation from one man to another that if he does not do as others do — ?— I do not go as far as that. If a man says, "I am going out on strike, are you coming?" and the other man says, "No, I do not intend to come," there is no harm in giving any information.

2502. But if the reply was, "Of course, if you do not come out with us now we will not work with you in future" ?—That ought to be provided against distinctly. As to a great many of your questions, I am not a lawyer, and I am not quite sure exactly how far the law goes on the subject.

2503. Do you consider that the law should make a difference between one strike and another according as it is reasonable or unreasonable ?—Who is to decide the reasonableness ?

2504. Is the Court to do it ?—Of course an unreasonable strike, if you could do it, ought to be stopped, but I do not see how you are to do it.

2505. Therefore, if the workmen strike for £2 a week when all they ought to receive is 35s., that might be a very unreasonable strike. Would you punish them or treat the strike as actionable on that account ?—Will you please repeat your question ?

2506. What I wish to get from you is whether you think the Court ought to hold a strike an actionable thing because it is unreasonable ?—No, I do not think so, but it is a proposition so wide that one has some difficulty in answering it. I do not think that because a thing is unreasonable it is therefore actionable, and I do not see how any man can say that.

2507. Do you think that what the law ought to do is that the court should not look into the question of whether a strike is reasonable or not, but simply say, "A strike is a combined action which men take because they think it to their advantage" ?—Is the meaning of your question that the law should make penal an unreasonable strike ? Is that the point ?

2508. Penal or actionable ?—The only case I can conceive is a trade union paying money to enforce an unreasonable strike, and in that case I think the trade union ought to be responsible.

2509. You think, then, that if the workmen have asked for 40s. when they are only entitled to 35s., and the trade union has supported those men during a strike, the trade union ought to be responsible for that ?—You are putting the question rather on a particular point. I would have some difficulty in thinking that any court would take it that a demand for 40s. was *prima facie* unreasonable. It might be reasonable or unreasonable, but I have never heard of it being proposed that any such action should be taken.

2510. Let me put it to you in another way. The law might say that all strikes are unlawful, or it might say that all strikes are lawful, or, again, it might say that some strikes are lawful and some other strikes are unlawful; which of those three theories do you hold to ?—I hold none of them. The question that all strikes are to be unlawful is a thing one cannot possibly suppose.

2511. Then we will rule that out ?—But what would be illegal—or at least I think it would be illegal—would be if a trade union said to a certain colliery, for instance, some of the men belonging to which were working and some were not, "If you do not come out none of our men will work with you again," and gave money in support of that, then in that case I think the trade union should be liable.

2512. (Chairman.) Might I interpose to suggest another form of words for what I think you are wishing to express ? It is one thing to give an opinion as to whether a strike is in itself lawful or unlawful, and it is another question, of course, as to whether the means by which the strike is either induced or conducted is lawful or unlawful ?—That is precisely the case,

2513. (Sir Godfrey Lushington.) Let me take a practical instance from your own paper. You give an instance here : *Noble, Bart., K.C.B.* "A striking case of such oppressive action is disclosed in the following Report." and then you give the story of the sole plate ?—Yes. 30 Nov. 1904.

2514. The workmen go off strictly at the hour, leaving the work uncompleted—I suppose you would say that was a very unreasonable action ?—It was unreasonable, but not unlawful; if you have no fixed times for a man and he has a special arrangement that he will work overtime, or the rules of the shop are that he will work overtime if required, to a certain extent, as is the case with us, then it is not lawful, but if there is nothing of that sort it is most unreasonable, but not unlawful.

2515. (Sir William Lewis.) That was by the orders of the union ?—In a case where it was by the orders of the union, I think the union were responsible for any damage.

2516. You state that, "The fitters were old employees of the firm, and would have been perfectly willing to stay to complete the job, but the orders of the union were imperative, and they left" ?—Yes, in that case, in my opinion, the union should have been responsible.

2517. (Sir Godfrey Lushington.) Do you think you could distinguish between the union and the workmen ?—Yes.

2518. You think the union is an outside body which gives its orders to persons who are outside; is that the theory ?—It gives its orders to its own members.

2519. And have not its own members authorised the union to do so ? Do they not appoint these men and say, "We wish you to look after the trade for us and tell us how we ought to act" ?—I do not think they ever did, but of course all governing bodies do take certain powers, and in this case the union did take that power, and they ought to be held responsible for it.

2520. Only one more question. You say, on page 8, (*Vide p. 162, col. 2, ante*), "The *Taff Vale* and *Quinn v. Leatham* Decisions are merely declaratory and do not import any new principles. They simply set forth that trade unions are and must be under the laws which regulate all human intercourse"; you quote the *Quinn v. Leatham* Case, and therefore I suppose you are familiar with the decision of Lord Lindley in it ?—Yes.

2521. Do you say that the law which Lord Lindley laid down as to justifiable interference with another is the law which regulates all human intercourse ?—My point is simply that a trade union should be under the same law that any other society in the country is; they should not be taken outside of the law, and that is all that is meant by that sentence.

2522. (Mr. Cohen.) At page 5 of your statement (*Vide p. 161, col. 2, ante*) there is a heading, "Prevention of Trade Disputes," and it is there stated, "In the engineering industry the epoch of change dates from the agreement effected between the Federated Engineering Employers and certain Allied Trade Unions in January, 1898." Is that agreement in writing ?—It is printed, and I will be very pleased to send a copy of it upon receiving a note of the things which I have got to supply. (*The agreement was subsequently sent in*)

2523. That agreement was come to in January, 1898 ?—Yes, it was at the conclusion of a strike which lasted for many months.

2524. And I think you say that that agreement has worked very well ?—It works very well indeed. I have been put in rather what I feel to be an unpleasant position, and it must be understood, as I have said already, that I have the greatest respect for all the workmen's representatives I have had to meet with in discussion, and it must not be supposed that I have any personal feeling against them, or anything of the sort. Although there is a great substratum governing them, the men they put into the management of affairs are able men who will look at things fairly if they are left free to do so.

2525. You are not at all opposed to what is called the principle of collective bargaining ?—Not in the least, in fact a great many employers prefer it. I do not say that I do altogether, but as president, one alters one's own opinions a little to be in conformity with the rest of one's brother employers.

2526. And a great many disputes have been settled in this way, in the way you have described, since the year 1898 ?—Yes.

Sir Andrew 2527. When an agreement has been come to in the way
Noble, Bart., you have described, have there been any instances in
K.C.B. which that agreement has not been observed by the trade
unions?—No, there have not been many. There have
30 Nov. 1904. been difficulties arising in smaller firms, and where they
have had certain rules differing from those of the
Federation. In certain cases the rules have been
altered, but have been agreed upon in that particular
town or district; otherwise, the agreement has been
worked to fairly and honourably by the trades unions.

2528. Strikes are, of course, very unfortunate things
as they occasion great loss and entail other injurious conse-
quences?—Yes.

2529. And you consider, I gather from your note here,
that strikes may often be prevented by such agreements
as you have come to, and as you have described under the
head of "Prevention of trade disputes"?—Yes, we have
never been so free from trouble, and my experience of
manufacturing, excluding when I was in the Government
employment, now stretches over more than forty-four
years.

2530. I think I may say, generally, that the effect of
your evidence is really that what you would like to see
prevented as much as possible is intimidation?—Yes. I
have had occasion to visit the works on the Continent,
and two things are remarkable; first, the larger quantity
of work they got out of their men, and, secondly, the greater
comfort for their men. The way in which their shops were
warmed, their having the tools supplied to the machines,
so that the men need never leave their machines, and
certain comforts for the men, such as the supplying of
tea, if they wanted it, at a moderate cost which they could
drink at their machines (they would not allow spirits),
altogether were so striking that I sent, I daresay, a dozen
of my foremen over to see it, and they came back very
much struck with it. One of the foremen said, "There
the men seemed to delight to go to their work, and here
you know we have to drive them a little," but we have
tried to introduce a good many of these improvements,
such as warming the shops and some other things, and they
are certainly worth a good deal though expensive.

2531. They have tended towards efficiency?—Yes.

2532. And it is in that direction you look for the better
relations between employer and workmen?—Yes, we
have no reason to grumble, on the whole, as to our relations.
I want rather to put that strongly, because I am afraid
some of my evidence might lead people to a contrary
opinion.

2533. (Mr. Sidney Webb.) Not to go over the ground
that has been gone over, could you make any suggestions
with regard to those demarcation disputes which you have
brought before us so graphically?—I am afraid my
answer to that must be what is in our agreement with the
Amalgamated Society of Engineers and two or three
kindred societies, and that is this, that the only reason-
able way is that it must be left to the employer to
employ such class of labour as can do the work efficiently.
I ought to explain that is not the case in all trades,
because, especially in the shipyards, there are certain
agreements which are still adhered to, but that is the
only way to avoid disputes.

2534. You suggest, in fact, that the employer must
really have full liberty to employ any man, or not to
employ any man, as he thinks fit?—I do not think an
employer should make any distinction as to whether a
man belongs to a union or not.

2535. What I am asking is this: you would not think
it right that the law should interfere with the liberty of
an employer to choose his own men as he sees fit?—Cer-
tainly not.

2536. And that, therefore, (I may say I agree) I
assume you would wish the men to have the same liberty
to choose their employer as they think fit?—Clearly.

2537. And, therefore, to refuse to work if they choose
in any particular case after giving due notice?—Yes,
giving due notice they can do that.

2538. Then the difficulty is, and I put it as a real diffi-
culty, that then even men may decide on some mistaken
ground that they will, giving due notice, refuse to work
under very unreasonable circumstances?—They may,
but I do not see that we can help it. The only way that
the law can help us is in saying that they shall not coerce
other people to refuse to work.

2539. When you say "coerce" you may mean one
of two things, and the first is physical violence or the
threat of physical violence, and that, of course,
is illegal, and I assume you think it ought to be
to be illegal.—Yes.

2540. But supposing the coercion is merely that the
men, very unreasonably perhaps, refuse to go on work-
ing along with other men, let us say red-haired men, do
you suggest that it would be possible for the law to make
it an offence for men to strike after proper notice under
such unreasonable circumstances? Is there any way
in which you could limit it?—No, I do not think you
could; if a man merely says "I will not work with
another man," the law cannot punish him for that.

2541. And similarly, I suppose, if all the men in your
employment were to choose to say that, you could not sug-
gest that they should be punished?—If all the men in
our employment without any coercion or threat
were to take that course, but if some of the men,
acting under instructions, said to others, "If you do not
act with us we will not work with you," there should be
a law to prevent that because that is a threat injuring
the man.

2542. Supposing you say as the employer of your
workmen, "If you do not do your work better I shall not
employ you," that would be a threat equally, would it
not?—No, not of the same sort.

2543. That would be a threat which you think ought
to be permissible?—Certainly.

2544. And therefore there is a distinction?—A very
great distinction.

2545. And between some threats which are permissible
and some threats which you think ought to be illegal?—
That is so.

2546. Among the threats which are illegal are
clearly threats of personal violence: that we agree
about?—That we agree upon.

2547. The other question is, would you suggest that it
should be illegal for the workmen to threaten that they
will refuse to work with another workman?—Yes, I
think that should be illegal.

2548. Would you suggest that it should be illegal for
an employer to warn a workman that he will refuse to
employ him in future? You must have that liberty as
an employer?—Yes, but the man has the same liberty;
he says, "If you do not advance my wages I will go"; and
I say, "If you do that work badly I shall not continue to
employ you."

2549. And those two threats, if I may so call them,
are on an equality of legality, you think, or ought to be
as being both permissible?—Which?

2550. The two that you have yourself named, the
employer threatening that if the workman does not do
better he will not be able to continue to employ him, and
the workman threatening that if the employer will not
give him an advance of wages he will not be able to con-
tinue to work?—They are clearly on an equality.

2551. Similarly, supposing a number of workmen make
the same intimation to an employer, that does not make
any difference in the permissibility?—Not at all.

2552. Supposing one workman says, "I give you notice
that I shall decline to continue in your employment if
you have such a very objectionable person as Jones con-
tinuing to work," would not that be permissible?—
Upon my word I do not know whether it would be per-
missible or not, but I am quite sure it would not be per-
missible if you put it in the form of your former question,
namely, that he comes to another workman and says,
"If you will not go out with us we will not work with
you."

2553. You think that threat should be made illegal?—
That threat should be illegal, but one cannot say that
two or three men acting independently could not go and
give the same notice, and in fact they always do so.

2554. You told us very frankly that your Federation
sent round a list of names of men who had struck to the
firms belonging to the Federation?—Yes, in the district
anyhow.

2555. You do not suggest that that should be made illegal?—No, if it is not accompanied with a threat; if you merely send a list of men who are on strike it is not illegal.

2556. What is the object of sending that list of names to the other firms? There must be some purpose in it?—It is giving them the information that these men are on strike.

2557. That is not a piece of information that is in itself interesting?—It is exceedingly interesting.

2558. You do not think that the intention is that the firm receiving that intimation should abstain from employing those men?—That is for the firm to say.

2559. You do not think that is the intention of the firm sending it?—It is not the firm that sends it but the Federation.

2560. The office of your Federation?—The rule of the Federation is that any men going on strike are at once reported to the Federation.

2561. Therefore it is a collective action?—And the Federation send out information as to all their proceedings to the various firms in the Federation in due course.

2562. Could you tell us the object of sending out those names?—It is simply the rule that all reports coming to the Federation are circulated.

2563. Could you tell us with what object that rule was framed?—It certainly was not framed for that special purpose.

2564. But it was framed for some object?—It was framed to give information as to everything that took place.

2565. At any rate, you think it ought to be permissible for the Federation to circulate among its members the names of workmen who are on strike?—Yes.

2566. And, similarly, you think it ought to be permissible for a Trade Union to circulate among its members the names of firms whom it thinks objectionable?—Clearly, and they do it.

2567. And you would not wish to see that made illegal?—Certainly not.

2568. But supposing that, in consequence of that circulation of the list of firms who are acting against the interests of the trade as they say, a strike occurs and great loss is suffered by a firm, you would not think it right that the firm should be able to recover damages for that?—No; the object of our Federation is that there is a special Board appointed to compensate them from funds raised among ourselves.

2569. And, therefore, you would not wish that firm to be able to get compensation from the Trade Union?—Not unless there was some illegal act done.

2570. Just one other point, and I really put this for information: You have had since 1893 a very interesting joint agreement, and it has led to amicable discussions which have in most cases prevented strikes?—Yes.

2571. I think that in one or two cases there have been strikes in spite of the discussions, have there not?—Yes, but they are few, and, as a rule, not of great importance.

2572. And I think in one case at least there has been a strike against the wish of the Trade Union concerned?—Yes.

2573. The Trade Union concerned, you would probably think, did what it could to prevent the strike but was unable to prevent it?—Yes.

2574. You suggest I see that the Trade Unions should be treated like other corporate bodies, responsible for their actions?—Yes.

2575. Would you be willing that the Trade Unions should be given the same privileges on the other hand as other corporate bodies? For instance, at the present time a Trade Union cannot enter into an agreement with its own members?—Yes, but I believe they have their own reasons for not doing it.

2576. At any rate, from your point of view you would see no objection to it?—Not if they complied with the law which exists in the matter.

2577. And, similarly, they are not allowed at present to enter into an agreement which can be enforced with an employer or with their Association?—Yes. *Sir Andrew Noble, Bart., K.C.B.*

2578. Would you see any objection to their being made capable of entering into a legally enforceable agreement if they thought fit?—They can do it now. *30 Nov. 1904.*

2579. At any rate, whether they can do it now or not you would not think it objectionable that they should be able to do it?—Not objectionable unless they are put in some special position.

2580. In fact you wish to see them, as far as possible, put in the same position as any other body of men combined together?—Yes, I am not prepared upon that point, but as far as my recollection goes they are not in that position because they would be obliged to conform to certain things which they are now not obliged to conform to, and that is the reason they have not placed themselves in the same position.

2581. On the question of whether the law is to be improved, the point arises whether they should not be put in the same position as an ordinary limited company?—My point is that they must adopt the custom prescribed by law for putting themselves in that position which you desire.

2582. But supposing they are prepared to adopt all the customs prescribed by law, then would you think they ought to have the same privileges as any other association?—Clearly.

2583. (*Sir Godfrey Lushington.*) In reference to the questions that have just been put to you, I do not know whether you have heard lawyers say that qualification may be attached to corporations, that a body may be incorporated, and yet it may be prevented from suing or from being sued or whatever the legislature think fit. I am not sure that you did not give an answer just now to Mr. Webb which perhaps did not exactly represent your opinion. Would you be in favour of a law by which a Trade Union might take action against one of its members and compel that member to pay his subscription to the Union?—I do not see any reason why they should not, but, as I said before, I am suspicious of any special legislation upon the point at all. I want, if they are going to have the privileges, responsibilities, etc., of corporate bodies that they should do it through the usual channels which are open to all corporations in the country.

2584. If you make an agreement, I will not suppose that you are likely to break the agreement, but supposing the other side proposes to infringe the agreement, you can apply to the court and get an Injunction against that man, can you not?—Yes.

2585. Say that a strike takes place and a workman agrees with the Union that he shall keep out until the dispute is settled and not work; nevertheless in infringement of that contract the workman does take service, he leaves the strikers and goes to work, would you be in favour of the Trade Union having the power to apply to the court for an Injunction to prevent that man going to work?—No, unless the contract be one that can be enforced by the ordinary law.

2586. You understand the bearing of the questions I have put to you upon the questions put to you by Mr. Webb?—Yes. Perhaps I have not rightly followed the point of view from which you are looking at it. In that case no doubt there may be some recourse that the Trade Union has by special agreement—I cannot say—and I am afraid the point must be more clearly put so that I can understand what the real legal responsibility is. Anything legal that there can be of course should be recovered, but I cannot say whether that step would be legal or not.

2587. (*Sir William Lewis.*) Have you experienced any difficulty arising from unionists declining to work with non-unionists?—Speaking for my company, no; taking certain trades we have, I think considerably more unionists than non-unionists, but we have a great deal of repetition work, and where you have much repetition work you can use a cheaper class of labour, because the same thing has to be done over and over and over again, and in that way we have a very large number of non-unionists whom we call semi-skilled men.

Sir Andrew Noble, Bart., K.C.B. 2588. But your Federation embraces a great number of employers; have any difficulties of that kind arisen among the other smaller employers?—Yes, a great deal of difficulty; we do work certain classes of machines at a very much cheaper rate than a small employer does, and that is another reason why I am very strongly opposed to certain acts, because it means the extinction of small employers, which I think is a great evil to the country.

30 Nov. 1904.

2589. Would not giving any increased powers to Trade Unions be a means of forcing these non-unionists into the Union?—For small employers, yes, but not, perhaps, for large employers; you will always find that the larger employers are the last to be attacked. The arrangements we have made with most of the societies now have removed that evil very much, but it still exists to a certain extent, and you will find that the small employers are getting fewer and fewer in number.

2590. And although general strikes have been very much reduced since the establishment of your agreement in 1898, you have had a great number of strikes among the tradesmen themselves?—Yes.

2591. Practically an attack upon the management of the various concerns?—Yes, a great many; for example, in finishing a great number of our ships we have had to get all our joinery work from abroad. Speaking from memory, there was a six months' strike between joiners and shipwrights, and then we had to get nearly all our wood-work for finishing the ships from abroad.

2592. (*Mr. Sidney Webb.*) In what year was that?—I can send the information.

2593. The interesting question is, Have those demarcation disputes been more frequent in the last six years than in the six years before?—I think so.

2594. (*Sir William Lewis.*) That was my question, that while there have been fewer questions as regards wages there have been more disputes as to the line of demarcation between respective trades?—Yes.

2595. Have they arisen from any new circumstances, or the introduction of machinery, or simply from a continuation of previous arrangements: the pattern maker doing such and such a thing and the shipwright doing a certain thing, and without any overlapping?—Yes, part have arisen from new conditions—for example, in connection with the number of pipes we have in a war-

ship now, there has been a great dispute between copper-smiths and others as to who should fit these pipes, and there are many other points arising from modern improvements. I think it has made things more difficult.

2596. As I understood your replies to the Chairman in many cases the unions of the particular classes have not supported the men in striking?—In many cases they have not.

2597. (*Mr. Cohen.*) Have any of the disputes arising from the demarcation or separation of different kinds of work come before what I may call your Conciliation Board?—Yes, and in a great many instances they were finally decided in our favour by what I may call the court of final resort.

2598. A great many have been so decided and settled?—A great many have been so decided and settled.

2599. May I take it that the greater majority have been?—I think I may say so.

2600. Supposing there is a dispute between your firm and your men or some of your men and they were to say, "We should like our case to be presented to you by the trade union or by a delegate of the trade union?"—We refuse that in all cases.

2601. Then who presents the dispute—who explains it to you—the men themselves?—Our rules are these; we are bound by promise to meet any deputation of our own men, but we will have no outsider present in the deputation. In the event of a conference being wanted then they are bound to go to the district association and demand generally in the first case a letter and, if necessary, a meeting.

2602. But ultimately the trade union comes before you in some shape or another, does it not?—Oh, yes; I think it is given in my statement at the bottom of page 5 (*Vide p. 161, col. 2 ante*).

2603. Yes, I see it here: "In case of disagreement the local associations of employers will negotiate with the local officials of trade unions?"—Yes.

2604. (*Sir William Lewis.*) But in no case do you decline discussing with trade union representatives after you have exhausted every reasonable means with your own workmen or their representatives?—That is so.

MR. RICHARD LAMBERT

called and examined:

Mr. Richard Lambert. 2605. (*Chairman.*) You are managing director of the Union Lighterage Company and former president of the Association of Master Lightermen and Barge Owners of the port of London?—Yes.

30 Nov. 1904.

2606. You have had your attention and the attention of your Association called to the proposals that have been made to alter the law by the Bills (*Vide Appendices, pp. 7 and 8*) which were presented to Parliament last year?—Yes, those have been considered by the Council of the Association.

2607. I think you have furnished us with a short statement on that ending up with the resolutions that have been passed by the Council of your Association?—That is so. The statement is as follows:—

The company of which I am a director owns some 360 barges of 33,000 tons carrying capacity, and seven steam tugs, and employs 300 workmen. The Association comprises all the leading companies and firms; there are ninety-two members, owning about 8,000 barges.

I have been connected with the lighterage business thirty-six years, and have had experience of two big strikes—the great dock strike of 1889, and the strike of lightermen, which commenced on 12th October, 1900, and continued until the 24th January, 1901. Owing to the character of the lighterage business and the exceptional conditions under which it is worked, the barges moving with the tide, and having to lie at exposed wharves on the river or alongside steamers discharging or loading in the stream, it has been found impossible to provide sufficient protection for men able and willing to work during a strike. The men in the barges are at any time liable to be approached by pickets in boats, and there being no police at hand, and in many instances no means of escape for the workmen, such men as are able and ready to work will not face what they believe to be a

serious risk. The pickets may start with the intention of persuading the men to leave their work, but it is a very short step from persuasion to molestation.

Any number of men could have been got to work during the last strike if sufficient protection could have been afforded them.

Even in the docks it was found to be necessary to secure the assistance of the Metropolitan police to protect men at work against pickets. My company jointly with the Midland Railway Company paid for the Metropolitan police to attend at the railway company's depot at Victoria Dock, to protect men at work in the barges from molestation. After a time the police were withdrawn and pickets then began threatening the men, and for their protection the services of the police were again obtained. Then again, it is not possible to have a large body of men working together where they could act for mutual protection, as they could in a factory or at a wharf. One or two men are sufficient for the working of a barge, hence they are at the mercy of the pickets approaching them with the determination to get the men away from their work.

The strike of 1900 was brought about by a demand, without any notice, for payment of wages on a basis not hitherto charged nor asked for by the men, and upon payment being refused, the men left their employment with my company, the secretary of the Men's Society being present. The men went out, or were called out, from four other firms, although my company and the other firms were paying the same rates of wages and on the same basis as other members of the Association where the men remained at work, it evidently being the intention of the Union to take the employers in detail, but the associated employers felt it of the utmost importance to the trade of the port generally that this attempt on the

part of the Men's Society should be resisted, and other lighterage firms and companies not struck against undertook the work of the five firms, and in the end there was a general strike amongst the fine goods lightermen. After remaining on strike sixteen weeks, the men ultimately returned to work on the employers' terms. I beg to draw the attention of the Commissioners to a report which appeared in the *Daily Telegraph* of 5th September, 1899.

Mr. John Burns is reported to have said, when addressing a mass meeting of watermen and lightermen held on the 4th September, at Limehouse, in connection with the strike of 1889:—

"I have never yet flattered any section of the working community, and I never will, and there is in this meeting to-night one of the most important sections of British industry. Yours is a peculiar trade carried on under peculiar conditions, and your men have but to threaten to strike to bring about a deadlock in London's traffic. You have learnt what the essence of power is."

Employers have already suffered great hardship arising out of the system of picketing by trade unions in cases of strikes. The Council of the Association view with considerable alarm any alteration of the law giving relief to trade unions for their liability for the acts of their officials or members, as recently laid down in certain legal decisions, or for any further powers being given them with regard to picketing or interfering with any workman whilst following his employment.

Resolutions on the subject have been passed by the council as follows:—

(1.) That this Association is unanimously opposed to any amendment of the law relating to trade unions which will increase the facilities already existing for interfering with the liberty of any workman to seek or follow such employment as he may think fit.

(2.) That no relief should be given to trade unions from the consequences of wrong doing, either in their corporate capacity or by their officers, agents, or members.

2608. (*Sir Godfrey Lushington.*) You are of opinion that peaceful picketing is impracticable?—Yes, it leads to molestation very quickly.

2609. Have you had much experience of actual strikes yourself?—I have had experience of the last lightermen's strike, which commenced on the 12th October, 1900, and terminated on the 24th January, 1901, and also of the great dock strike of 1889.

2610. During that strike or any other strikes have you been satisfied with the conduct of the police in the matter?—My company jointly with the Midland Railway Company had, through the dock company, to obtain the services of the Metropolitan police at our expense to protect our men loading at the Tidal Basin Station of the Victoria Dock, and while the Metropolitan police were there our men worked unmolested, but after they had been there about four or five weeks we thought we would withdraw the police and did so, and the moment we did so the men were molested and would not continue working, and we had to reengage the Metropolitan police.

2611. My question was rather addressed to this: Have you been satisfied with the activity and energy of the police in preventing intimidation?—I cannot say that we have. Of course our business is carried on largely on the river, and there we have the Thames police, who come under the Metropolitan Division, but there are very few of them, and a man in a barge drifting up the river has really no protection at all. Perhaps there is a police boat about a mile or half a mile away, and he may not see another for some time.

2612. As to the constables who are on the river, do you think they have done their duty?—I think so.

2613. You are satisfied with the instructions that have been given from headquarters?—Yes, I think the constables themselves have done everything they could to prevent any disturbance of the men who wished to remain at work, but on the river there are not sufficient of them.

2614. Some cases are brought into Court before the magistrate?—Yes.

2615. Have you been satisfied with the administration of justice in the magistrates' courts?—I have not had any experience of cases being brought before the court, but my colleague, Mr. Jacobs, of the Thames Steam Tug, and Lighterage Company, has had several cases where the men have been molested, and police court proceedings have been taken against them, and in some of those cases the men have been convicted, but in many cases they are let off—the thing is not pressed.

Mr. Richard Lambert.
30 Nov. 1904.

2616. You think, then, that the offence has not been punished with sufficient stringency?—Well, there is a great deal of leniency on the part of the magistrates in cases of that kind.

2617. Do you think there ought to be leniency?—No, I think there ought to be greater protection afforded to the workman who wants to work when a strike is on, and I think the magistrate is rather lenient with the offender against a man who wishes to work.

2618. We can understand that when the strike is over it is right to forgive and forget, but when the strike is going on, should the fact that there is a dispute between employers and employed be a reason for greater severity or greater leniency?—I think the police magistrate in that case should administer the law, and should not show leniency.

2619. I believe the habit with the Metropolitan police magistrates is to let off the first offender with a fine, and then to give notice that anybody else who is found intimidating is to be punished with six weeks' imprisonment?—That is so in some cases, but I think in some cases they are let off without a fine—admonished.

2620. When a plague is about to spread the sooner the plague is stamped out the better, you would say, would you not?—Unquestionably.

2621. I understand that you, in common with other persons carrying on undertakings, object to be taken in detail by the trade unions?—Yes, that is what they attempted on the last occasion.

2622. Therefore you make common cause with those who are struck against?—Yes.

2623. Do you help them with money?—Not generally, but sometimes, if it is necessary; we give material support.

2624. You state in your *précis* that you were able to assist the members of your Association who were struck against, by doing their work for them?—That is the most valuable support we can give them; the men struck against the other firms then.

2625. (*Sir William Lewis.*) You do that in preference to supplying them with any means?—It is the most effectual method of dealing with a labour disturbance.

2626. (*Sir Godfrey Lushington.*) You give them what help you can?—Yes.

2627. I suppose workmen object to be taken in detail?—Well, we have never attempted it, but naturally they would.

2628. Is not the very existence of a union really a protection against workmen being taken in detail?—It is undoubtedly.

2629. And in the same way, in the same trade or in kindred trades, workmen help one another in time of strike?—Yes.

2630. By contributions, or occasionally by themselves striking?—Yes.

2631. Do you think that should be permissible or not?—I think it should not.

2632. Why are employers to be allowed to help employers and workmen not to be allowed to help workmen?—When I say that I think it should not be permissible I do not mean to say that one man should not help another by contributing, but I think it is manifestly unfair, as in the case of that dock strike, where the lightermen had no grievance against their employers and they simply went out in sympathy.

Mr. Richard Lambert. 2633. Is sympathy such an objectionable thing?—Well it began with sympathy, but it terminated by their making increased demands, and eventually, when the dock labourers' strike was settled, the lightermen remained out, and then further concessions were made to the lightermen to induce them to return to work.

30 Nov. 1904.

2634. Do I understand that you think that the law ought to impose restrictions on the power or right of a workman to refuse to work?—No, I will not go so far as that.

2635. You would be doing so, would you not, if you said to the lightermen that they were not to strike in order to help the dockmen?—They had no grievance at all against their employers when they went out in sympathy with the dock labourers.

2636. Would you make a strike unlawful simply because it is unreasonable?—No, perhaps you could not make it unlawful because it was unreasonable.

2637. A great many strikes for simple causes, such as wages, may be ever so unreasonable?—Yes.

2638. Do I understand from you that you would make a sympathetic strike actionable or not?—I do not think you could make it actionable.

2639. What is your view about the announcement of a strike—do you think that ought to be actionable or not?—I do not quite follow you.

2640. If workmen come and say, "We mean to strike unless you raise our wages, or unless you do this or that," do you think that ought to be considered as a threat and illegitimate?—No, I cannot say that, but I think it would be in the interests of the trade generally that no strike should be permitted unless there was a certain notice given.

2641. Do you mean notice before the strike, or notice for terminating the contracts?—Notice before the strike; if men have a grievance they ought to give notice of what that grievance is, and I think Parliament could go so far as to say that they should give one—two or three weeks' notice that unless that grievance is remedied they will strike.

2642. (*Sir William Lewis.*) That is to say that they terminate their service?—Yes.

2643. (*Mr. Cohen.*) They should send an ultimatum?—Yes. In my case the lightermen at the time of the last strike were paid on Friday night at my office, and at half-past 7, because I would not pay certain demands they made, which they had never given any notice of, and never asked for before, those men went out on strike, and my barges with thousands of pounds worth of property were left unattended on the river; and I had to do the best I could to get them to places of safety.

2644. (*Sir Godfrey Lushington.*) There would be great difficulty in carrying out your suggestion: how do you think the men would work while the notice was running?—I think it would be as much in their interest as in the interest of the employers.

2645. If they were sensible, but taking human nature, especially lightermen, as it is, do you think you would be able to get your men to work well during the three weeks?—I think so.

2646. (*Sir William Lewis.*) Is it part of your terms of hiring that you should have notice before any workmen can leave their employment?—No, we have no contract with the workmen at all.

2647. Then the workmen were quite within their rights in terminating their service without notice?—I do not think they were within their rights, because they were in charge of vessels on the river in exposed positions, and they left without any notice whatever.

2648. Then your terms of hiring would involve their doing something, and if there was any work partially finished they should complete that before leaving?—Well, there is an unwritten regulation to that effect, but there is no contract.

2649. As you well know, generally speaking, a man cannot be sent about his business without notice, unless of course he violates some rules; nor can he leave without giving notice?—That is so.

2650. That is so in pretty nearly every trade in the kingdom?—Yes.

2651. (*Mr. Cohen.*) Do not the lightermen belong to any trade union?—Oh, yes, they are licensed lightermen whom we are compelled to employ on board our barges for navigating the river, and there are what are termed unlicensed men, whom we employ on the canals, and in the docks, and now both of them are members of one union. The lightermen who navigate the barges have, of course, the privilege of the Watermen's Hall, and they have to hold a licence.

2652. How long has that trade union been in existence?—I should think it has been in existence quite thirty years.

2653. Is it a powerful trade union?—Yes, we must employ licensed men; if they strike to-morrow, and they will not work for the ordinary rate, we can employ unlicensed men, but the moment they say "we will return to work" we are bound to take them, and cannot employ the unlicensed men, so that they have very great power in their trade union, and they are privileged.

2654. (*Sir William Lewis.*) Have you any difficulty with respect to the working of the unionists with non-unionists?—We reserve to ourselves the right to employ either, but I believe the majority of the men are unionists. We have got some non-unionists.

2655. Do you make any distinction between unionists and non-unionists?—Not in the least.

2656. (*Mr. Cohen.*) You have had no difficulty arising from some of the men being unionists?—Well, we had during the strike; we got some men to work for us who were non-unionists and when the old hands resumed work there was friction, and some of the men got a bit assaulted, and were looked upon as blacklegs, and had rather a rough time of it, but I think that gradually wears away.

2657. That was not a serious matter?—No, not very serious.

2658. (*Sir Godfrey Lushington.*) Have you printed rules for your Association?—The objects of the Association are set forth in a printed pamphlet.

2659. Would you have any objection to let us have a copy?—I will send it to you with pleasure. (*The pamphlet was subsequently sent in.*)

Mr. T. W. JACOBS, junior, called and examined.

Mr. T. W. Jacobs, jun. 2660. (*Chairman.*) You are managing director of the Thames Steam Tug and Lighterage Company, Limited?—Yes.

30 Nov. 1904.

2661. You were supplied, I think, with the Bills (*Vide Appendices, pp. 7 and 8*) which were introduced in Parliament last Session, with a view to giving us the opinions of yourself and your company, and also of the Master Lightermen's Association, of which you are a member, upon the proposals for legislation therein contained?—Yes.

2662. You have kindly supplied us with a considered statement upon the matter, which you now put in?—Yes; the statement is as follows:—

I am Managing Director of the Thames Steam Tug and Lighterage Company, Limited, owners of 340 barges and five steam tugs. I am a member of the Master Lighter-

men's Association, and have been appointed by them, with Mr. Lambert, to give evidence before this Commission. I have been a member of the council of the association since 1889, and was president during the period of the strike of Lightermen, which lasted from October, 1900, to January, 1901. I was also a member of the strike committee of the association during the great dock strike of 1889, besides which I have had experience of other minor strikes.

The powers and immunities proposed to be conferred upon trades unions, individuals, or persons who may associate themselves together (as in Bills 7 and 8 (*Vide Appendices, p. 7*) for the mere purpose of qualifying themselves for the privileges proposed, are of such a character as to reduce employers to a position of helpless impotency in labour disputes.

The principal matters dealt with by the Bills are:—

- (1.) Legalisation of peaceful picketing.
- (2.) Restriction of actions for interfering with business or contracts.
- (3.) Prohibition of actions against Trades Unions and protection of funds.
- (4.) Amendment of law of conspiracy.

1. LEGALISATION OF PEACEFUL PICKETING.

My views on the question of the amendment of the laws relating to picketing are set out at some length in the accompanying draft proof of evidence which I had proposed to submit to the Commissioners. The peculiar conditions our men work under make it possible for picketing of the most peaceable kind to be rendered as effective as intimidation. They are often dependent upon the help or at least co-operation of others in navigating and working their craft, and a good deal of their work is carried on at night. A man who neglects to follow the advice or respond to the "persuasion" of the pickets is a marked man, and means are easily found for making known his "disloyalty." The result is that in numerous ways he may be balked in his work and led into serious accidents, damage to or by his craft, injury to himself, or even loss of life. For instance, a man taking a barge to a ship in the river may want to bring up and make fast to another barge already alongside. A strong tide is flowing and he is unable himself to get a turn. He is dependent on the friendly assistance of a man on the other barge who refuses aid. He therefore misses his turn and drifts athwart a steamer's stem, resulting in damage, &c. Examples might be multiplied without end. But this is sufficient to indicate what a "warned" man may be subject to. With such possibilities the mere attendance of the pickets strikes terror into the minds of a man's family, and though the man himself may be willing, his wife and family will not permit him to take the risks.

In my opinion the recent judgments in picketing cases have modified the gross injustice commonly inflicted on employers on the one hand, and workmen willing and able to work on the other, in many labour disputes by reason of the abuse of the law which permits interference with the liberty of a workman to seek or follow his employment.

Our own trade is especially at a disadvantage in this respect, owing to the wide area over which the work is carried on. It is not carried on in a factory or yard to which the men can come and go to their work in groups. The approaches to works or factories are usually watched by police in times of labour disputes, and once inside the men can work unmolested. But our men have to attend their barges alongside ships in the docks where there is no police protection, or alongside vessels or wharves in the river where, although some protection may be afforded by the police, it is of very little use, as it cannot be concentrated in the same way as at the approach to a factory. The men usually work singly and invariably find themselves surrounded by men working at the ship or wharf, who, being themselves members of other trade unions—in sympathy with the strikers—make matters as difficult as possible for them, and will insult, abuse, and even molest them to such an extent as to make it impossible for them to carry on their work. They are also, from their isolated position, easily approachable by pickets, whose object is to induce them to leave their work. The pickets are appointed by the trades union and work in gangs, and my experience convinces me that even though their instructions may ostensibly be to avoid violence, such instructions are usually of the "don't put him under the pump" order. Gentle persuasion may be advised, but if the subject refuses to be persuaded, argument, intimidation, and personal violence follows.

We had many men assaulted and injured during the 1900-1901 strike, the most serious case being one of the foremen, who was badly injured about the head, and has never been able to resume his former duties. Another man had a rib broken. I put in a statement including other cases which happened in my own firm (*Vide next column*). These by no means represent all the cases of intimidation, but are only some of the more serious ones of which records were taken with a view to legal proceedings.

I am aware that such offences are punishable, but my point is that many of them would not have happened but for the liberty to "persuade" which it was understood the law conferred until recently.

During the 1900-1901 strike an abundant supply of men was forthcoming from outside sources, but though anxious and willing to work it was impossible, for the reason I have already given, to protect them from the too persuasive pickets, and they were either prevented from applying for work or compelled to leave it after a few days' trial. Nothing short of intimidation in its worst form kept many of the men from resuming work upon the terms offered by the employers within seven days of the commencement of the strike. The terms were generous, and were ultimately accepted practically without modification, but not until after the strike had lasted sixteen weeks.

Many of our men informed me from time to time that they were willing to come to work but for the fear of molestation. Men came to me, with tears in their eyes, to tell me of the distress they were in—homes sold up and children without food and clothing—and repeatedly said they were content with the terms of their employment but were afraid to resume work, owing to the terrorism of the pickets. Some even started work but were compelled to leave again.

The strike was a remarkable illustration of the power of the officials of a trades union to terrorise men anxious to work by a well-organised system of picketing. I seldom found the more respectable workmen performing picketing duties. Generally speaking the ne'er-do-wells and the loafers are the men who take up the office and profit by the emoluments, and probably earn more, and certainly get more "fun," than they are able to do by honest employment.

We have no objection to Trades Unions properly conducted, but they should not be enabled to interfere with the liberty of the individual by means of picketing, however peaceful their professions may be.

The time and place to persuade a man is at the meeting of his lodge or union, where all information necessary may be communicated, and all lawful argument and persuasion may be used to induce him to comply with the views of the executive. Written or printed information might be sent through the usual channels, or, if conveyed by hand, it should not be lawful for more than one person to be employed for the purpose.

Examples.

December 10th, 1900. W. Purseglove, F. Shailer, H. Shelton, A. Furness, T. Benham, Senr., and T. Benham, Junr., in the Company's employ, were threatened and intimidated by the following men:—J. Hart, G. Judd, W. Crigg, Scaldwell, Mancy, A. Hart, S. Piggott, J. Thompson, F. Stokes, and A. Onley. The men were summoned, and Scaldwell fined £2 and bound over to keep the peace for twelve months. The remainder of defendants were strongly censured and by mutual agreement cases withdrawn.

December 22nd, 1900. J. Heenan had been working in this Company's employ as watchman, and was proceeding home from Millwall Dock. He was in a public house at Shadwell when he was hailed by three men as a "blackleg," and was badly assaulted, sustaining a fractured rib. One man, named George Wear, was identified and apprehended, committed for trial, but the jury were not satisfied as to identity, and the man was acquitted.

January 10th, 1901. J. Clark, foreman lighterman, struck on head with a stick near to entrance to the inner lock, Millwall Dock, the blow given rendering Clark partly unconscious and unable to identify his assailant. A medical certificate, dated January 11th, stated Clark was suffering from concussion of the brain, rendered unfit for duty three weeks, and he still feels the effect of the assault. He occasionally has to be away from business and has not been able to resume his full duties, and probably never will.

January 10th, 1901. W. Williams and F. Buss in charge of barges "Africa" and "Fly," entering Regent's Canal Dock about 6 p.m., were assaulted (not seriously) by several men, part of a gang of thirty, or more. They were unable to identify the men.

January 11th, 1901. Richard Heenan, watchman, employed in Millwall Dock, was in the cabin of barge "Swan," when someone closed the cabin scuttle, blocking up the funnel, the smoke from the fire filling the cabin and causing danger of the man being suffocated.

Mr. T. W. Jacobs, jun. January 17th, 1901. Thos. Grosvenor, watchman, was working in the Tilbury Dock, and on leaving the dock in the afternoon was accosted by a man named Thomas Scoulding, who, after using very bad language, struck Grosvenor in the face. Scoulding was summoned, but the case was withdrawn on Scoulding compensating Grosvenor and paying expenses.

30 Nov. 1904.

January 19th, 1901. J. Reynolds and T. Sangster, tug captains, assaulted by three men in High Street, Brentford, on the night of January 19th, Reynolds being somewhat seriously injured. Summonses were taken out against C. Piggott, A. Onley, and F. Stokes; the men had to find sureties, and were bound over to keep the peace.

January 22nd, 1901. G. Harvey, captain of the barge "Eton," was proceeding down Regent's Canal, and was on the tow-path near City Road Lock, when someone struck him on the head and he was knocked down and kicked by four men. His assailants not known.

February 4th, 1901. W. Nash, captain of the barge "Cyprus," was in attendance with barge in London Dock, and while on the dock quay was seized by three men, who accused him of being a "blackleg," and threatened to throw him into the dock. After some difficulty he got away from the men.

Tugs' crews subjected to stone-throwing from off the bridges between London and Brentford on the tugs passing under the bridges throughout the whole period of the strike.

2. RESTRICTION OF ACTIONS FOR INTERFERING WITH BUSINESS OR CONTRACTS.

In Bills 55 (*Vide Appendices, p. 7*) and 91 (*Vide Appendices, p. 8*) Clause 1 appears to be drawn for the sole purpose of legalising any act which may be done by a "person" to prevent an employer carrying on his business, etc., in "contemplation of or furtherance of a trade dispute," which at any other time would be illegal. As I understand this clause a "dispute" need not actually be in progress. The mere fact of its being "contemplated" is sufficient to change the present law. It is not even provided that the dispute shall be contemplated by both sides. It follows that any Trades Unions or may be (if Clause 1 of Bills 7 and 8 stand (*Vide Appendices, p. 7*) any association of individuals, or any person, who think it desirable that some change should be made in the condition of their employment to forthwith "contemplate" a dispute, and immediately proceed to do anything they please to prevent the employer fulfilling his contracts or business engagements without fear of the consequences, however unlawful their acts might otherwise be.

3. PROHIBITION OF ACTIONS AGAINST TRADES UNIONS AND PROTECTION OF FUNDS.

To my mind the clauses dealing with this matter following those already dealt with constitute the leaders and officials of trades unions absolute dictators. They may convert unlawful acts into lawful acts. In other words they may make law to suit the occasion, or break the law without fear of the consequences. They are under no obligation to restrain their members or officials from unlawful acts. In fact any evil disposed persons may "associate" and, so long as they are impecunious, may do anything they please to injure the employer, who is to be deprived of any remedy against the union funds which sufferers have heretofore had and now have.

4. AMENDMENT OF LAW OF CONSPIRACY.

I think this is more a matter for legal argument, and I do not offer any remarks upon it.

Mr. EDMUND ASHWORTH called and examined.

Mr. Edmund Adam Ashworth & Sons, hat manufacturers, Bury, Ashworth, Lancashire?—Yes.

30 Nov. 1904.

2676. The Secretary to this Commission communicated to you the Bills (*Vide Appendices, pp. 7 and 8*) which were introduced in last session of Parliament with a view to amending the law on various matters connected with employers and workmen?—Yes.

2677. And you have prepared a statement dealing with the opinion which you have upon the proposals contained in those Bills?—Yes; we wrote just in reply to the Secretary's communication.

2678. And that statement you now put in?—Yes, the statement is as follows:

In conclusion I beg to hand in the following resolutions passed at a meeting of the Council of our Association on the 4th November, 1903.

"That this Association is unanimously opposed to any amendment of the law relating to Trades Unions which will increase the facilities already existing for interfering with the liberty of any workman to seek or follow such employment as he may think fit."

"That no relief should be given to Trades Unions from the consequences of wrong doing, either in their corporate capacity or by their officers, agents, or members."

2663. (*Sir Godfrey Lushington.*) Is there any federation of trades in your business, or are you only a single company?—We are a single company, but we federate under the association of Master Lightermen.

2664. Do you belong to that association?—Yes, we are members of the association.

2665. What rules have you to be observed in the case of a strike against one of your members?—I do not know that there are any.

2666. Do you help one another?—We help one another.

2667. In what way?—The only thing in the nature of a rule that we have is this: it is not a rule of the association, but there was a resolution passed at the commencement of the strike that we should help one another to do the business that might offer for the firms that were struck against.

2668. (*Mr. Cohen.*) Have you any standing rules?—Yes, I have not got them with me, but there is nothing in them relating to strikes, nor was it obligatory on every member to comply with the resolution that was passed—in fact, I should say that the majority of our members on the last occasion did not support the firms who were struck against.

2669. (*Sir Godfrey Lushington.*) The lightermen struck to support the dock men?—No, that was in the earlier strike of 1890; they went out in sympathy with the dockmen then. I was speaking more particularly of the strike which lasted sixteen weeks at the end of 1900 and the beginning of 1901.

2670. Do you see any objection to one body of men assisting another body of men in a strike? Do you think it ought to be permitted by the law?—I do not see how you could prevent it very well as long as it is done legitimately.

2671. By "legitimately" you mean by legitimate means?—Yes, I mean without the persuasion, as they call it. In the strike I refer to in my paper, in 1900–1901, our men said they had no grievance at all against the firm; it took over a week to get them out, and they were practically coerced one by one to leave their employment.

2672. (*Sir Godfrey Lushington.*) When you say "coerced" what do you mean exactly?—Pressure was put upon them by the men who were on strike.

2673. Pressure in what way?—They were waited upon, and "persuaded," as it is termed, but from what I was told by many of the men who were induced to leave their employment threats were held out which made them leave; I am quite certain the men would never have left but for very great pressure being brought to bear on them.

2674. You do not believe in peaceful picketing then?—No, there is no such thing; it cannot go very far.

If the proposed legislation regarding Trade Unions became law picketing would be a deterrent to people who were willing and wished to apply for work. It would harass those who were working and wanted to work.

The effect of knowing that they would have to pass through a picket going to and coming from their work would in itself be sufficient to stop many, who were not in accord with the objects of the strikers, from going to work. This is a point upon which workpeople are very sensitive indeed, and was especially noticeable in our case.

It would be a source of great annoyance to a manufacturer that a picket should be allowed to operate in the close vicinity of his works, and he should be protected

by law from being subjected to such annoyance. I am of opinion that there could not be such a thing as peaceful picketing. The distinction between peaceful picketing and other picketing would be practically impossible to define, and would certainly be impossible to observe by participants in a strike where feeling is bound to run high. It would be impossible for a place to be beset by a picket without conducing in a very large degree to constant breaches of the peace. Any information such as it is proposed might be obtained by peaceful picketing.

With regard to the restriction of actions for interfering with business or contracts, it would appear to me that if these were made law it would be granting a preferential exemption from the consequences of their acts, or those of their agents, to Trades Unions, which I think is quite contrary to the general custom. If the Trades' Union, directly or through their officials, associates with, and renders assistance to a strike, it seems to me only just that they should abide by the consequences of their action. The absence of a restraining influence of this kind I am sure would often lead to the keeping open of a dispute, which otherwise might be amicably settled. The sense of freedom from responsibility would lead to the giving of advice, which, under other conditions, would have been considerably modified and therefore more conducive to a settlement of the matter in dispute.

It is difficult to give illustrations, but during the course of the strike at our works, instances were several times brought to our attention whereby our workpeople were subjected to annoyance and interference by officials of the Unions calling upon them at their houses, and when they failed to persuade them to cease work, they threatened consequences, which generally were to the effect that when the strike was over the persons then working would either not be received in the Union at all, or before being received would have to pay a very heavy fine because of their inability to see eye to eye with the Union over the matter then in dispute.

The following is a short account of the origin of the strike at our works in October, 1902:—

We had in our employ at our Bury Works about 300 workpeople who might be roughly classed as follows:—

- 50 young persons.
- 50 unskilled workpeople.
- 200 skilled workpeople

We received a verbal intimation from the Secretary of the Felt Hatters Union that there was a feeling of dissatisfaction amongst these skilled workpeople who were members of the Union on account of the remaining portion of the skilled workpeople in our employ not being members of, and therefore not contributing to, the Union, and that unless that feeling was removed he was afraid that the Union would have to call out their numbers.

We asked him what he had to suggest and he replied, that he thought if we were to put the matter before the Non-unionists they would join the Union if we wished them to do so and so avoid any trouble.

Wethen pointed out that it was not our practice to make any enquiries of any applicants for work when engaging them as to whether they were members of the Union or not, and we never made any distinction between Union and Non-union workpeople in our employ, and consequently we firmly declined to take any such steps as he suggested; in our opinion an employee was perfectly entitled to use his or her own discretion whether they joined the Union or not.

The outcome was that as the Union could not induce all our skilled workpeople to become members, they instructed those who were members to give in a week's notice to cease working for us, which was done, and as a consequence our business was most seriously damaged, as without those skilled workpeople the services of the remainder of our hands were practically of very little use.

Mr. JOHN ALLEN called and examined.

2689. (*Chairman.*) You are a member of the Executive of the National Federation of Merchant Tailors' and editor of the "Master Tailor and Cutters' Gazette"?—Yes.

2690. You had forwarded to you by the Secretary of this Commission the Bills (*Vide Appendices, pp. 7 and 8*) containing the various proposals that were made

When the strike had run on to the beginning of the present year we received an intimation to the effect that the hands on strike were willing to return to work and drop the question of the membership of the Union.

In reply to this we pointed out how our business had suffered through no fault of ours, and that in re-engaging any hands in order to secure ourselves against a recurrence of the trouble, we should require each one to give us an undertaking that they would not strike again against Non-unionists for refusing to join the Union.

To this they could not see their way to agree, and the strike went on until about the end of March, when those on strike expressed their willingness to return to work on the understanding that any persons in our employ were to use their own discretion as to whether they joined the Union or not, and also on the undertaking by the Federation of Trades' Unions that should a section of our hands in the future come out on strike because another section refused to join the Union, they (the Federation of Trades Unions) would disclaim any connection with the strike and withhold any support to the strikers.

2679. (*Sir Godfrey Lushington.*) I think you express yourself strongly on the subject of peaceful picketing?—Yes, it is rather difficult for me to imagine such a thing.

2680. Are you aware that picketing with a view solely to obtain or communicate information is lawful?—Yes, I believe it is.

2681. Can you suggest what is the information which has to be communicated or has to be obtained?—I can only think of one kind of information and that is information that might be of effect in the carrying out of the operations of the strike, that is furthering the ends of the strike, such information as how many people were at work and therefore whether the places were being gradually filled in of the people who were on strike; also who the people were who were working.

2682. Do you think that is sufficient justification for pickets being appointed to watch or beset the house?—No, I do not.

2683. You suffered rather severely from a strike which had in view the employment exclusively of unionists?—Yes.

2684. I suppose you think that the action of the unionists was unreasonable?—Yes, we do.

2685. Being unreasonable do you think it ought to be either criminal or actionable?—You are referring just now to our particular case?

2686. I was referring rather to the general question; do you think a strike should be considered unlawful because it is unreasonable?—I should not like to say; it seems to me more a matter of opinion. That would be as to the matter about which they were striking?

2687. Do you think it is a right law that power should be given to the judges to pronounce a strike unlawful and therefore actionable because it is unreasonable?—I think so, if it was shown that through its unreasonableness it had the effect of damaging the business of the firm against whom it was in progress.

2688. Supposing the unreasonableness lay on the side of the employer and that he imposed an unreasonable condition against which the unionists reasonably struck, do you think that such unreasonable action of the employer ought to be the subject of an action at law?—Yes, quite as much as on the other side. I can easily understand that it would many times be putting the employer in a very difficult position in deciding, if he has only himself to rely upon, what is reasonable and what is unreasonable.

In Parliament last session to amend the law in certain particulars?—Yes, I had.

2691. With a view to giving your opinion as a man of experience in your own trade as to how it would affect your trade if they become law?—Yes.

2692. And I think you have forwarded to the Secretary a statement of your views on the subject?—Yes; I forwarded a brief letter which I said I could amplify.

Mr. John Allen.

30 Nov. 1904.

Mr. John
Allen.

30 Nov. 1904.

2693. That expresses your views?—Yes, decidedly ; It is as follows :—

I wish to state, most emphatically, that the passing of the Bills, copies of which you have kindly forwarded, would most injuriously affect, not only myself personally, but the tailoring trade generally—spokesman for which, as you know, I have been appointed. The experience of many years has demonstrated “peaceful” picketing as impossible—it is not intended for the obtaining or imparting of information, its object is to overawe and terrorise. If the object was as set forth one person would be sufficient. I knew a case where an out-worker was engaged making garments for a master tailor whose men were on strike. An individual picket called on him and said, “You’ll have to stop this, and if you won’t do it for me telling you, a hundred of us will come to-night.” A mob will do what an individual would not dare to do, and “persons,” as defined in these Bills, means a “mob.” Intimidation and violence have always been the weapons used in the strikes that have occurred in the tailoring trade.

If the law of conspiracy be amended as sought by these Bills, we will see committees of trade unions usurping the functions of government, summoning individuals to their courts, and punishing the infraction of their commands with fine and ostracism. So far as the journeyman tailor’s union is concerned, it is a trade union that in no sense represents the operatives employed. It is an effete organisation which only allows its members to work in one way, and would, if permitted by law, spend its last shilling and proceed to the greatest length of violence to oppose the principle of division of labour and factory work.

The third thing aimed at by these Bills, viz., immunity of trades union funds, and non-liability to legal actions, would, if secured, be a gross injustice to the employers in our trade.

Master tailors, as a rule, are not well-to-do. They are chiefly foremen who have succeeded, with insufficient capital, in getting into business, and even as it is a master tailor is greatly handicapped in maintaining his rights against a trades union. I have been personally interested in two cases where men of straw have been put up as defendants. Officials of the union found all funds for their defence, but retired into the background when a verdict carrying damages against their nominees was found.

I trust the Commission will see its way to recommend the maintenance of the law as recently interpreted, and so help to save our country from the experiences which the Antipodes are going through at present. Any evidence I could give would be merely amplifying and giving particulars of the statements I here make, and if called upon will be happy to do so. I have a number of illustrations with me of how picketing works.

2694. You might give us a few of those?—I have been very familiar with all strikes in the tailoring trade for a number of years, and I never knew any case of what you would call peaceful picketing; I have known a case myself where two of the union men have gone to an outside worker in the morning and said, “Are you working at any strike work? Well, the sooner you drop that the better, and if you are found at any of that after I have called now there will be a hundred of us here to-night.” And they kept their word, a hundred used to go. The intimidation in the tailoring trade has really been scandalous, and I have some newspaper cuttings here of cases in court in connection with the Scotch strike a year ago, as to which you may probably have had some evidence already, and the way the workers in London who took on some of that work to make were treated was abominable. The friends of the strikers simply raided the place and made a bonfire of about £100 worth of garments that were being made.

2695. (Sir Godfrey Lushington.) There have been plenty of cases of intimidation, but do you go to the extent of saying that picketing with a view to peaceful persuasion is practically intimidation?—Yes, I never knew it to work out otherwise. I would always allow one man to go and see one man and argue with him in a friendly way, but I would not allow numbers to do what you would allow one man to do.

2696. (Chairman.) You think the essence really of the intimidation consists in the numbers?—It does.

2697. In fact, I noticed in the personal illustration you gave us just now that the threat so to speak in the

morning was no more at first seemingly than the mere attendance of numbers at night?—Exactly.

2698. In fact, was the attendance of numbers put forward as the thing which would in itself frighten the man?—Decidedly.

2699. (Sir Godfrey Lushington.) What would you say to a single man who was the representative of a trade union saying, “If you do not go with us, all of us, say 50 or 100 or 200 men, will refuse to work with you.” Do you think that should be either punishable or actionable?—No, I do not know that it should. What they call picketing resolves itself into processions with banners and bands in some cases, and sandwich boards, upon which the person against whom they have got the dispute is accused of sweating and so on. That occurred in Sackville Street within the last three years in the case of a most high-class tailor who would have nothing to do with sweating, and yet hundreds of these people paraded before his premises and gave hand-bills to his probable customers in the street. That is Mr. Rapkin’s case, and I have known that multiplied over and over again in the town.

2700. (Chairman.) On the other hand, you do not say that it would not be perfectly fair for a person wishing to dissuade another man from working to say, “If you choose to go on working I, and a hundred other people who agree with me, will not go to the same shop with you?”—No, I do not say that there would be anything very seriously wrong about that; I think those people would perhaps have a right to say that, but I do not think they ought to go to the employer and say, “If you employ that man none of us will work for you.” I think that is carrying it rather too far. You have no idea of the terrorism that existed before the law was altered, and how difficult it was for an employer to bring actions; they put men of straw up and you could get nothing from them and you would have to pay all your law costs after fighting just for a bit of common liberty that you would expect to have in a free country.

2701. (Sir Godfrey Lushington.) What is the alteration in the law that you think has made the difference?—I allude to the different interpretation that has been put upon it now; the Taff Vale judgment now says that their trade funds may be liable where they are guilty of an offence, and formerly it was considered that they could spend their funds up to a certain point without any risk of liability.

2702. (Chairman.) May I take it this way from you? You are not a lawyer and I do not propose to ask you questions about the law, but as a practical man, do you think you have had an easier task to deal with the trade unionists since certain recent judgments than you had before?—Yes, and I consider that as employers we were in a very unfair position before, because we had to fight a very hard battle and we could get no redress in the end. There was a Southport strike on once and a pair of breeches was sent to a place in Manchester to be made for one of the Southport tailors; they found out by enquiring and picketing where this job was made and a deputation went to the man’s house in Manchester and threatened him with all sorts of things; they tore the garment out of his hand and out of the shop, telegraphed to Southport that they had got the breeches and they had a brass band and procession meeting them at the station and they marched through the streets of the town with the breeches rolled up at the top of a pole.

2703. (Sir Godfrey Lushington.) That has always been illegal?—But we could get no redress whatever we did. We might take an action against some of these people and be told in the end that the trade union had nothing to do with it. In the case I have just been mentioning they threw the breeches into the shop of the man who had sent them out originally, after ripping them all up and I had those breeches for some years in my place. The law as it stands is very good and it should not be altered in any way.

2703a. Would you have any objection to give the Commission a copy of the Rules of your Association?—Not in the least. I will send a copy to the Secretary (*The Rules were subsequently sent in, and extracts from them are printed in the Appendices, p. 84.*)

Mr. C. CORRELLI called and examined.

2704. (*Chairman.*) You are the Secretary of the Association of London Master Tailors?—I am.

2705. You were supplied by the secretary to this Commission with the Bills (*Vide Appendices, pp. 7 and 8*) introduced into Parliament last year and asked to give evidence on behalf of your Association as to how you thought those Bills would affect you if they became law?—Yes.

2706. You have prepared a statement giving your views upon that subject?—I have done so.

2707. And you now put it in?—Yes. The statement is as follows:—

The judicial decisions have had great effect on the trade unions, especially the Taff Vale, as affecting their funds, and I would add Sir Thomas Bucknill's strong summing up in the assault case, as affecting intimidation.

Generally speaking masters have always been willing and even anxious to make every reasonable concession in order to work in peace—they have been reluctant to prejudice by quarrels the interest of both sides.

Before these decisions they had either submitted to the tactics of the unions, or, as in the case of my Association, had gradually induced them to abandon or modify their more aggressive practices.

Since those decisions, very little picketing in the old sense has been practised, it has mainly been resorted to for the purpose of obtaining information.

On the other hand they have not been so ready to agree to conciliation, and where they felt sufficiently sure of their case they have shown a growing tendency to ignore the Masters' Association.

As far as my experience goes, tactics such as intimidation, bullying, dead marches, etc., seldom have the active support of the more responsible leaders, but, unfortunately, the government of trade unions is by appeal to mass meetings. Decisions are submitted to popular clamour and the more violent proposals are naturally acclaimed by a majority impelled by passions. They come clothed in their momentary grievance and their decision is a foregone conclusion, often given in opposition to the advice of some of the wiser officers.

The agitations are often encouraged and excited because they re-awaken the enthusiasm of the men for the cause and help to bring in subscriptions. Under this system of agitation the leaders feel bound to use their powers under the Act to the utmost, if they wish to maintain their popularity; and, however favourable and lenient the law may be made to the unions, there is always a risk of their straining their powers until they reach the snapping point, and exceed legal licence, so that it is a wonder that the recent judicial decisions were not brought about long ago.

The comparative cessation of the more violent kind of picketing has given place last year to quite novel tactics. On the occasion of a strike in Scotland, after the usual mass meeting, bands of men, after parading the streets of London, proceeded to raid the homes of outworkers, forcibly entered the rooms where they thought Scotch strike work was being made, and with violence seized the work, whether it was strike work or not.

This led to the arrest of some of the leading raiders who were charged with theft, but, owing partly to intimidation of witnesses, the charge of theft was difficult to prove, and, on the magistrate's suggestion, the prosecutors had to be satisfied with a verdict of guilty on the charge of intimidation.

This raiding experiment having been found too dangerous, it has since then been improved upon. In order to escape the charge of theft and intimidation, the raiders paid the workman the wages he had earned on the strike work, thus securing his sympathy and co-operation in the seizure of the strike work, together with his silence as a witness.

Instead of relieving the trade unions of the responsibility fastened upon them by the recent judicial decisions as proposed in Mr. Shackleton's Bill (*Vide Appendices, p. 7*), I feel that this responsibility should be increased, and, at the same time, the powers of their constitutionally elected representatives placed upon a better basis with view to facilitating the working of Boards of Conciliation. For instance, only officers elected at annual general meetings should be entitled to sit on Conciliation Committees; delegates elected especially when a particular grievance requires arbitration are not the safest counsellors. They consider solely the temporary burning question and are not so concerned with the permanent well-being of the trade.

Trade unions should all be registered and their rules and bye-laws should be submitted to the approval of the Board of Trade. This approval could be made conditional to the consent of the Masters' Association, which should not be unreasonably withheld.

Notices of strikes are now customary: they should be compulsory.

Before the notice expires a mass meeting should be called, at which a short statement of the case for the masters, as well as of that for the men, should be read, and copies of these statements distributed and affixed in the principal workshops.

It is not equitable that the law governing the powers of trade unions should be uniform for all trades. In trades which work direct for the public, strikers are able to cause great injury to the masters, because they can appeal to the direct customers; they obstruct the entrance to the masters' premises by placing sandwich men in the carriage way; they completely stop the trade both at its supply and at its delivery, and they can cause many annoyances which miners, for instance, cannot cause so directly.

If the Bills became law, they would affect prejudicially the members of this Association.

Until the recent judicial decisions, the trade unions believed themselves possessed of the powers which these Bills seek to give them, and trade disputes were almost invariably conducted by means of picketing, attended by obstruction of business and besetting the men at work.

It is not a part of my instructions to complain of the existing law: the few improvements which are suggested in my notes of evidence are framed as much in the interest of the men as of the masters.

If the proposed Bills became law, I do not know any sort of besetting, short of violence, which might not be given the name of peaceful persuasion. In a strike which took place last year, house-breaking, assaults, and even theft were condoned by the men's counsel, and, in some degree, qualified by the Court, because they had occurred in a trade dispute.

2708. (*Sir Godfrey Lushington.*) In your association is there any provision made for mutual assistance at the time of strikes?—No, so far as contributions in aid are concerned. If you mean by assistance in getting work done, yes.

2709. In various ways; they might make a contribution the one to the other, or they might undertake to do the work which is not done in consequence of the strike, or they might look-out?—Yes, they might undertake to do the work which is not done, or they might look-out only.

2710. Have you ever done any of those things?—We have the power to call on the members to obey the decision of the Committee and power to levy a certain sum.

2711. Do you think that should be lawful or unlawful?—I can only say it has worked very well for thirteen years; we have never had to exercise the power.

2712. What is your opinion of the workmen? Do you think they should be allowed to have a strike in sympathy as they call it? Say, that there are shops A B and C and there is a dispute at A, but no dispute at B or C, do you think the workmen in shops B and C should be allowed to come out into a quarrel which has arisen only at shop A in order to assist the workmen in that shop?—We think that the men have a right to do so by law and we bow to the law in the matter.

2713. You do not think it ought to be actionable against the men when they come out on strike in sympathy with others?—No, we do not.

2714. Supposing that a trade union delegate suggests to the workmen in B and C to come out and help the workmen in A, do you think that ought to be an actionable thing? Perhaps you have not thought of the matter?—We have looked upon the law as it exists and we have tried to obey the law ourselves, and we have respected the workmen as long as they obeyed the law. It is only when they went beyond the law that we thought of any damage.

2715. But in assisting each other as employers you think you are within the law?—Oh, yes, we do think so.

2716. Would you have any objection to give the Commission a copy of the rules of your association?—Not in the least; and I can say that my association would be glad to furnish a copy. (*The Rules were subsequently sent in, and extracts from them are printed in the Appendices, p. 85.*)

Mr. C.
Correlli.

30 Nov. 1904.

TWENTY-SECOND DAY.

Wednesday, 7th December, 1904.

PRESENT.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B. (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Bart.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*.)

Sir BENJAMIN C. BROWNE called and examined.

Sir Benjamin C. Browne. 2717. (*Chairman.*) You are Chairman of R and W. Hawthorn, Leslie & Company, Limited, engineers, and shipbuilders?—I am.

2718. And you are connected with the Northumberland and Durham coal trades?—I am.

2719. You have been identified with a number of trade disputes during the last thirty-three years?—I have.

2720. You have furnished to this Commission a *précis* of the subjects on which you are willing to give evidence: I suppose you have no objection to that *précis* being recorded as part of your evidence?—Certainly not; I should like to amplify one or two points on it.

2721. Therefore I will take it that this *précis* will be put in as part of your evidence?—Quite so, as the backbone of my evidence. The *précis* is as follows:—

In reply to your communication of 13th August, I beg to enclose some remarks on trade disputes, etc., upon which I shall be willing, if required, to give evidence in fuller terms.

First, as to the consequences of the judicial decisions. There is no doubt that the decisions on the Taff Vale, and similar cases, have caused great concern among all those who are interested in labour disputes. Attention has been especially drawn to them as regards their bearing on the workmen, but it must be borne in mind that associations of employers are also trade unions, and the effect that these decisions have upon them and their actions have, so far as I know, never been discussed at all, although they are equally important with the effect that they have on the unions of workmen.

To take, however, the first case, the effect it has upon workmen's unions. The principal effect of it is to prevent what is commonly called picketing, that is, an interference by the men on strike, or their representatives, with other workmen who have come to take their places.

Now, the first question to consider is whether this picketing is, in the interests of the public, desirable or not. If it is desirable, of course no legislation ought to interfere with it, but if it is undesirable it must be prevented, either, as at present, by making the unions liable for the consequences, or by putting a very much more severe pressure on the individual who performs the act, so that, in any case, there may be effective prevention.

I think it cannot be denied that picketing without intimidation would be very inefficient, as, in these days, the men who are brought to take the place of the men on strike will always know of the existence of the strike before they come.

To look at the question fairly, we must divide strikes into two distinct categories. First, those in factories, collieries, and the like, where the number of men out on strike is large and where the employer generally does not try to replace his men, and only gives his attention to holding out as long as he can, and trusting to the men on strike being obliged to return to work. In this case picketing does not come in, and the decisions do not affect the question.

The second case is that of a strike on a railway, or in a gas works, where the safety of the public makes it absolutely necessary that the work should go on at all hazards, and the employer makes every effort to get in new men.

Now, it must be borne in mind that if a railway, or gas works, is stopped from working, the loss and danger to

the public is simply appalling, and what the men on strike can gain is as nothing compared to what the public lose and suffer. Also, that among the public by far the greatest sufferers are among the working classes, as rich people can resort to all sorts of means of avoiding the loss and danger, and such means are entirely out of the reach of the poorer or working classes.

Also, if a railway is stopped, numbers of industries are laid in, and numbers of other workmen thrown out of work.

No doubt, in a strike in a factory, the stoppage of one class of work may gradually lay others idle, but this is nothing like the acute position that is raised by the stoppage of a railway, or gas works.

It is surely a grave question whether the Legislature ought to justify such strikes as these, and, still less, assist them.

All those who are practically acquainted with labour questions know perfectly well that a strike is by no means the strongest weapon held by a trades union for enforcing its views, though this point is often overlooked by those who only take a superficial view of the case. The real strength of a trades union consists of the fact that a large number of men in one trade agree that they will not work below a certain wage, or except under certain approved conditions. Any employer therefore knows that if he wishes to carry on such work, he must either pay the rate of wage demanded, or seek for men elsewhere. Now, in many trades, so large a number of men are in the Union that the second course is impossible, and therefore the Union wage is generally accepted.

Of course where employers find that the Union wages are so high that they cannot make their business pay, they may try to get it reduced, but, equally, they cannot get the men until after the Union has AGREED to reduce the rate, but when it is considered what a very small relation strikes bear to the whole number of workmen employed in the country, it will be seen that their effect of fixing wages is very small indeed.

Assuming, which I suppose will be agreed, that the law ought to be the same for employers as for workmen, one sees the gravity of the special class of strikes to which I have alluded by considering what will be the effect if a number of railway companies or gas works combine together to lock out their workmen for their personal interests, and so cause the supply of light, or railway communication, to be annihilated in their own selfish interests, to the great loss of the public.

But as regards the effect of the Taff Vale, and other decisions, on the employers, may it not be the case that their hands are as much tied thereby as the workmen's? For example, suppose an employers' association orders a general lock-out in any industry, might not any given workman, so looked out, have a case against the employers' association for depriving him of the means of carrying on his lawful industry? I give this as one example, but if this holds good, it deprives the employer of the severest weapon at his disposal, and it can hardly be denied that it is incalculably in the interest, both of trade and common sense, that strikes should be minimised, than that Parliament should sacrifice the whole interests of the community in order to encourage these fights being carried on with greater freedom on both sides.

I have no hesitation in saying that strikes are very much increased by the ill-advised sympathy of ill-informed outsiders, who believe them to be the only method of settling labour disputes. This influence affects both workmen and employers, and there can be no doubt that if the House of Commons appears to encourage strikes and lock-outs, or even to look on them as the best, or only, method of settling labour disputes, it incurs a most serious responsibility.

2722. Now you desire to make some addition to your statement, will you take the points in your own order?—What is commonly known as the Taff Vale decision has, of course, made a great disturbance in the world, and the Trade Unions complain that it is very hard that they should be made liable to the extent to which they are for the acts of their officials. In that connection I take rather a different view to other employers. I think most employers say that they think the law ought not to be altered on any account. My own view is that possibly the law might be altered in this way:—I think it is quite possible that the law as to the responsibility of all employers towards their agents is too harsh. I think in any case Trade Unions ought to stand in the same position as all other employers, whether individuals or corporate bodies, but possibly the whole question of the law of employers and agents might be in some degree softened down from what it is.

2723. I am afraid that is rather too large a subject for our Commission to take in hand—the alteration of the law of principal and agent?—Then you would not consider the question of altering the liability of a trade union agent towards a trade union? I thought the question of the liability of a trade union official towards a trade union came within the scope of your Commission.

2724. Do you suggest that there should be a special law of agency applicable exclusively to trade unions?—Certainly not; I think if it is altered to anything it ought to be altered to everything. If the present state of things as between principal and agent is just, it ought to apply to trade unions, and if it is unjust it ought not to apply to anybody.

2725. Will you kindly state very briefly what you consider to be the injustice of the present law on the subject of agency?—I do not say it is unjust, but they complain that it is unjust. What I want to put is this, that however the law is altered, trade unions ought to be on exactly the same footing as any other employer or employing body. Of course trade unions are not the only body of working men employers; there are building societies, there are co-operative stores and other places which employ servants which are bodies of working men. There are charitable bodies and municipal bodies also; these are popular bodies; and in all of them what is right for one is right for the other. If the law is altered it should be altered all through. I do not think trade unions ought to be put on a favoured footing; that ought only to be if they were incapable of exercising the same vigilance that other men do, and that is not the case; they are quite as able to look after their officials as any body else is, but possibly the whole law might be re-considered.

2726. (*Sir William Lewis.*) Do you suggest that it should be?—I suggest that it should be reconsidered. I do not say altered, because that is a matter which requires a very large amount of examination. I think it quite possible that the law is too severe. One often finds cases in civil life where it seems very hard for an employer to be made liable for the act of his subordinate.

2727. (*Chairman.*) If my coachman, after the most strenuous orders from me, runs over a man in the street I have to pay; do you think that very hard or not?—Suppose the coachman's master was an extremely poor man, and suppose the person injured was an exceedingly rich man, it might be very hard indeed to pay the compensation for that act which the employer had done all he could to hinder, because, as I understand, if a coachman, or any other official, disobeys orders within a reasonable limit that does not exonerate the employer from liability.

2728. (*Sir William Lewis.*) Do you suggest making the law variable, depending on the circumstances of the particular individual?—No, but I think it possible that it ought to require more explicit command to carry liability, that where the man disobeys the order of his master,

that, possibly, ought not to carry liability with it, but in any case I think the law should be the same for all employers. *Sir Benjamin C. Brown.*

7 Dec. 1904.

2729. (*Chairman.*) To sum up what you have said about the Taff Vale, you desire that the same law should apply to trade unions as to all other persons?—Exactly.

2730. But in your opinion some hardships are liable to occur, both to Trade Unions and to other persons in the application of the present law of liability of principal for agent?—Exactly.

2731. What is your next point?—The next point is as regards picketing. I certainly think that all picketing is really for the purpose of intimidation in some shape or form. I have never known a case in my experience, which is large, of men coming to a place where there was a strike and being entirely ignorant of the fact that there was a strike there; there may have been such cases, but I have never known them in a very wide experience, and for a certain number of men to wait upon a man who is working is intimidation. Of course you may make the law what you please, but either picketing is right or it is wrong, and the law has to make its mind up and if it is wrong it ought to be absolutely stopped. It is no use playing half and half, and saying that a certain number of men may stop a man and explain to him the state of things; if six or eight men stop a man and explain to him the state of things, that really amounts to a threat, and probably is taken as such.

2732. Is it not true that at the present time picketing is absolutely prohibited except in the case of attending at a house or place for the sole purpose of receiving or communicating information?—It is usually so understood since the recent decisions came out. It is understood that that is the practice now.

2733. That is the express law on the subject?—Exactly.

2734. Can you suggest the kind of information either to be received or to be communicated which would appear to justify the picketing? At present the law says in so many words that attending at a house or works merely for the purpose of receiving or communicating information shall not be deemed watching or besetting that place?—Quite so.

2735. Therefore it is permissible by the law, and I wish to learn from you what is the information to be received or what is the information to be communicated which should be a justification for watching and besetting the place?—I suppose, if one of the men on strike waited on a man who was coming from work and said, "I beg your pardon, are you aware there is a strike in these works?" and said no more than that, that could hardly be called intimidation; but if he said, "We mean you to go away" —

2736. (*Mr. Cohen.*) Do you think picketing is reasonably necessary for the purpose of giving or obtaining any information?—If I was a Trade Union leader and working a strike, I should attach very little value indeed to it, unless I trusted to intimidation, but I do not think that intimidation has much influence on large strikes in ordinary factories, because as a rule if the strike in the factory is a large one you cannot get sufficient new labour to fill up the vacant places. For example, when we have a general strike in the shipbuilding or engineering trades it never occurs to us to try to bring in men to fill up their places, we simply wait until the men are tired of striking, and come back to work. But there is one case which is extremely different, and that is the case of railways and gasworks.

2737. (*Chairman.*) Before you go into that, what is the information which pickets would naturally communicate to those who are at work?—My impression is that the whole thing they can lawfully communicate is the fact that there is a strike.

2738. Nothing else?—Perhaps the substance of it might be, "We are on strike for a shilling a week advance," or, "We are on strike for so and so."

2739. (*Sir William Lewis.*) Is not that common knowledge in the neighbourhood very soon after there is a stoppage?—As I say, I have never known the case of a man being at work where there was a strike without knowing that there was a strike.

Sir Benjamin C. Browne. 2740. (Chairman.) There is other matter is there not? Might they not communicate to the man at work how many are on strike?—Yes, they might do that; they might say, "There are a thousand of us out on strike."

7 Dec. 1904.

2741. Showing that he is in the minority?—Yes.

2742. Or they might tell him that the employers were losing men every day and that the strikers were going to win?—Yes, they might tell him that, certainly.

2743. Can you suggest any other information that they could give him?—Well, I am on the wrong side to suggest it; I am an employer and they do not let me know what they talk about.

2744. But they have not come before us to tell us themselves and we have to fall back upon you?—In old times—I speak of many years back—one has known them threaten these men very seriously.

2745. Now as to information to be received, what is the information which those on strike would look to receive from the man who was at work?—Well I can only imagine that they might ask him, "How many men are at work? Are there any more of you? What have you heard about us?" They might ask those sort of questions which might be very interesting to them and that might be quite legitimate and fair, and I would not object to that.

2746. Although it is legitimate for them to wish to get that information, do you consider that it is sufficient justification for their watching and besetting the house where the man works or where he lives?—I should have thought not; I should have thought if they wanted to see the man they could go to his house, knock at the door, and call upon him as any other people might call upon each other; you and I constantly have to speak to strangers about various matters, and the working man might have to do the same, and we have a regular way of doing it, and why alter that in the case of a strike?

2747. That is the point, is it not, that what is called picketing is, in the terms of the statute, watching and besetting the house?—I have often seen, during a strike, on going to the gate of the works, two men on strike waiting a short distance from the gate ready to speak to anybody who comes out; when they go away other two men take their place, and that is what we call picketing—it is just like a military picket, in fact.

2748. Will you go on to your next point?—I do not think the question of intimidation is very serious in the case of an ordinary large strike in a factory, but it is very much more serious in the case of a railway or a gasworks for this reason, that that work must be carried on. If the men on a railway leave work, the railway must carry on the trade, and therefore they must get other people to take their places; if those men are stopped from coming in, the railway business cannot be carried on, and that is a most serious thing to the whole district. It might lead to the most frightful consequences if they could not get men at all to carry on the railway; and it might be that the men on the railway, for the sake of earning say another shilling a week, which they thought they ought to get, might put the whole town into the most serious difficulty, because the price of food and everything would be increased, and no manufactures could be carried on if the railways were paralysed.

2749. Yes, but how do you propose to deal with it?—We must always bear in mind what we mean by a strike. By a strike we do not commonly mean men leaving their work no matter in how large numbers; we mean men leaving work and hindering other men from taking their places.

2750. Is there ever a strike without that sequel to it?—I have known one, but it is uncommon, in fact we do not call it a strike in that case; we do not call it a strike unless the men stop other men taking their places.

2751. (Mr. Cohen.) What do you mean by stopping or preventing other men—intimidating them?—Intimidating, persuading, inducing, or in any other way hindering them from starting.

2752. (Chairman.) There is a good deal of difference between persuading and intimidating?—Well, in the ordinary case, if a man does not like his job and leaves it, he gives it up, and then he has no more concern as to who gets the job after him; a thousand men may leave, and the job is open

to anybody else; but what is objectionable is when they try to hinder other people, and that feature comes into a strike.

2753. (Mr. Cohen.) Would you make strikes illegal?—I do not say that.

2754. You would make intimidation illegal?—In the case of a factory you will observe intimidation does not so much matter; for example, to refer to one strike in 1897, there was the strike of amalgamated engineers all over England and a great many thousand men were out; our works were out and we did not bring a single man in or try to do so; it is absurd to suppose that we could find a thousand high-class engineers willing to come and work in our place during a strike, and we had simply to let the work stand until the men were tired and came in again. In the case of a railway, however, you cannot do that and you must keep your works going, and that is equally so in the case of gasworks, or the whole town is plunged in darkness. In those cases I think intimidation and picketing of all sorts ought to be certainly illegal, because you are inflicting such a loss on the community.

2755. (Chairman.) I think we must rule out intimidation, to begin with; intimidation is, of course, illegal?—Then I will say this: that I would distinguish the case of those industries which are compelled by law to be carried on, such as a railway; I mean, that I understand a railway is bound by law to run its trains and to carry on its service; they are bound to run certain trains every day and therefore in the case of those trades which must be carried on by law it ought to be illegal for anybody to actively hinder their doing that which the law compels them to do.

2756. Will you say what you mean by "hinder"?—To persuade other men not to work for them.

2757. Do you wish to make that unlawful?—In the case of railways and gasworks, certainly.

2758. (Mr. Cohen.) Although they do not break their contracts?—But the railway must be kept going, you see; for example, speaking subject to your better knowledge, I think a railway is bound to run one train at third-class fares each way each day.

2759. (Chairman.) But the law does not force anyone to do impossible things?—No, but at the same time, if you can understand what a railway strike involves, a town which has got isolated might be absolutely starved, and no people ought to have the right to inflict such an injury on their fellow creatures, and conversely the railway ought not to be allowed to lock its men out.

2760. The practical question is this: do you wish to make it illegal; that is to say, either criminal or actionable for one man to actually intimidate and terrify another?—Certainly.

2761. Do you wish to make it criminal or actionable for a person in his own interests to try to persuade another man to leave such a work as you have described, although he is not breaking his contract?—Yes, I do in these cases.

2762. Do you wish to make it illegal to advise a person in his interest not to work at one of those works?—Well, of course, there is a limit to what the law can do. If you went and sat down beside a man at the fire and said, "If I were you I would leave that job, and you can get a better one," you cannot make that illegal; but if you take any action which makes it difficult for a railway company to recruit labour which is willing to come to it, I think that ought to be illegal.

2763. But what is that action—describe it?—That would be reduced to what we commonly call picketing, that is watching the accesses to the railway and stopping the men coming or talking to them and persuading them in any way, or inducing men actually at work to leave.

2764. Yes, but the law already deals with picketing in all cases; it does not confine it to these works?—I understand, and all I want is to keep the law where it is. I understand that certain Members of Parliament wish that law altered, and I think, whatever happens, that before that law is altered Parliament ought to consider very carefully the awful effects they would bring about in the case of public works such as railways and gasworks.

2765. Are we to understand then that your objection to picketing only applies to these special cases you have mentioned?—It is very much worse in those cases.

2766. And that all your present observations are addressed to the point of picketing; that is what you would make illegal?—Exactly.

2767. That is a very different thing, is it not, from making illegal merely persuading persons to leave their work?—Yes, what a man says to another man in friendship, privately, you cannot possibly interfere with, so far as I can see. Does not the present law of conspiracy give us what we want—does not that make it illegal for a body of men to do that which one man may do legally?

2768. What you have to say comes to this, that you consider watching and besetting the place of work, or the houses of workmen, is objectionable in any case but it is most objectionable in the particular cases which you have specified?—Exactly.

2769. (*Mr. Cohen.*) May I just remind you that it is already illegal to persistently follow any person about from place to place for the purpose of compelling another person to do what he ought to be at liberty not to do?—Of course, I may have misunderstood my own position, but I got from this office a copy of certain Bills (*Vide Appendices, pp. 7 and 8*), which had been brought before Parliament with a view to altering the law, and I was asked what I thought of these Bills, and I am telling you now what I think of these Bills. If these Bills were passed I think they would introduce far-reaching mischief of the most appalling character, which I do not think the gentlemen who have drafted these Bills have ever considered. I am speaking against the alteration of the law which is suggested by these Bills. I should like to point out, of course, that employers may break the law as well as workmen and that any, what I might call, emancipation of Trade Unions would apply also to setting masters free to take exceptional action so as to bring pressure to bear against one another.

2770. (*Chairman.*) Do you belong to any federation of employers?—A great many; I belong to the Engineering Employers' Federation, to the Shipbuilders, the Northumberland Coal Trade, and the Durham Coal Trade.

2771. Have any of those Federations rules as to what is to take place in the case of a strike against any one of the members of the Federation?—When you say rules, we generally go by our own discretion. I would rather say we have customs and we deal with each case on its own merits.

2772. Are there any rules on the subject, and if so, we would be much obliged if you would give as a copy of the rules of each of these Federations?—We have no rules; that is to say, they are of the very vaguest description and we deal with each case on its merits. I am very willing to tell you anything about the way in which we deal with cases. Supposing that there is a strike in one works, we first of all consider whether the employer is right or wrong, and if he is wrong we tell him he must give way, but if we think he is right we try to meet the workmen and to get the thing settled by peaceable means. In the very large majority of cases that is done satisfactorily; we commonly find if we can get the heads of the Unions that they are most reasonable men to deal with, and we get an enormous majority of the disputes settled without any stoppage of work at all. If there comes a stoppage of work at last, we sometimes help the employer by pecuniary help, but in some cases, as a last resort, we look out all the men belonging to that Union. That was done in 1897 with the engineers.

2773. I suppose you think you are justified in assisting a brother employer who is unjustly struck against?—Yes.

2774. Do you consider in the same way that workmen are justified in assisting workmen in another trade or in another place of business?—Most certainly, just as much as we are; that is what Unions are for, and I have no enmity against Trade Unions.

2775. Just as you in case of extremity look out collectively all the workmen, so you would justify the one trade following another in striking against employers?—Supposing I discharged an engineer or a boiler maker palpably unjustly and the workmen could get no remedy,

it seems to me quite right and fair for the other workmen to leave my employment on account of the unjust action I had done to one of their number. *Sir Benjamin C. Browne.*

7 Dec. 1904.

2776. Would you think that the workmen in another trade or the workmen of another employer should be at liberty to assist your men if it seemed to be of assistance by striking against their employers?—To keep myself quite straight I will say this that I think most emphatically the union as a whole would be quite right in giving those men their pecuniary support.

2777. Might not another Union assist that Union?—Certainly, and I have no objection to that whatever.

2778. (*Mr. Cohen.*) With reference to that I should like to ask one question. Take the case where in your opinion workmen would be justified in striking, would you hold the Trade Union liable, because one of its delegates had advised the workmen to strike?—No.

2779. You think if a strike is justifiable the Trade Union should not be held liable because its officials have advised the workmen to strike?—No.

2780. In fact, I gathered from what you said just before, that Trade Unions very often give good advice to workmen?—Constantly; on the whole there is no doubt they stop far more disputes than they make, and I am a great upholder of Trade Unions.

2781. (*Chairman.*) But you would not make the action of the workmen, or the action of those who advised the workmen, lawful or unlawful according as you thought the object of the strike was justifiable or not?—All they can do is to advise according to the best of their lights, whatever these may be. The point of picketing rather is to interfere with other people with whom they have no business, and that is a different thing. The Union is a body of men who have agreed to act together, and we know all about the Unions; we take advantage of them; we go to the Union leader and say: "Some of your men are doing wrong," and the Union very often say, "Yes they are," and put them right.

2782. It would be rather hard, would it not, when you often use the Trade Union leaders to appease a trouble which is to your disadvantage if, on another occasion, when they gave advice contrary to your interests, you should then have the Union leaders either sued or punished?—I would not advocate that for a moment, and I hope I have said nothing to indicate that at all, because, as I say, they can only speak according to the best of their judgment. What we want is to negotiate with the workmen as much as possible on absolutely equal terms; I am quite satisfied the key to all satisfactory working between employers and workmen lies in the word equality—negotiating on equal terms.

2783. You said just now, I think, that you objected to men being prevented from working; in any of the trades with which you are connected is it the practice when a strike takes place for an employer to send the names of those on strike to any other employers?—Yes.

2784. Then I suppose that employer is doing his best to prevent those men being employed otherwise?—Yes.

2785. You do not see any objection to that?—Well, I am not sure; if picketing was stopped I would be quite willing to stop that at the same time.

2786. If picketing goes on, you think it is necessary to have that as a weapon?—That is our form of peaceful picketing. I can imagine employers coercing each other to a lock-out and to do various things (I have never known a case of it happening), but I am quite sure that it might be done if the law was slackened from what it is now. Supposing that one employer refused to join a lock-out, I can conceive other employers bringing a very unfair pressure to bear upon him, and if Trade Unions were not liable for the action of their officials we think employers, if they were bad enough, might do so.

2787. (*Mr. Cohen.*) If picketing were entirely abolished—swept away by legislation?—In picketing I do not include peaceful persuasion.

2788. I mean besetting and watching premises: take that to be the meaning of picketing; if picketing were entirely abolished do you think the employers' black lists ought also to be abolished—I mean notices given by them of the names of the workmen who have struck?—

Sir Benjamin
C. Browne.

7 Dec. 1904.

I think it would be quite fair if it could be done. My own impression is that this is a point which people get wrong upon; people always talk as if the object was to make the fight as fair as possible. Now to my mind all civilisation ought to do what they can to discourage these fights; the rights of neutrals want to be considered as well as the rights of the belligerents, to use a common illustration. At the present moment, from what one reads of the debates in Parliament and so on, it seems to me that the rights of neutrals are ignored altogether by legislators and other people. A strike is a very great calamity to a very large number of innocent people, and instead of Parliament trying to encourage and facilitate strikes and to make the strikes as large and as fair and as lively as they can, they ought to do all they can to discourage them. There is no doubt they are a blot on civilisation.

2789. (*Chairman.*) Do you think by the law, as it at present stands, black lists issued by employers are lawful?—I should think so. You see all that happens is this, that supposing there is a strike in a works, a list of the men on strike may be sent out to other employers, but another employer can take on these men if he chooses, and there is no power to hinder his doing it. It is simply a notification that "Those men are on strike from this works."

2790. But the object of that notification is to prevent them being employed?—Certainly, but our sending out of the list is more analogous to what it would be if a workman put a placard on the walls—that is to say, if I had a strike in my works and the workmen put a placard on the walls or put a notice in the newspapers: "All the engineers in Hawthorne's works are on strike." I could never object to that and that could never be called illegal.

2791. You must ask your solicitor about that, and I think he would give you a different opinion?—If a workman put a notice up to say that there was a strike in our works?

2792. (*Mr. Sidney Webb.*) At any rate, you think it ought not to be illegal?—I was under the impression that it was not illegal because a strike is always put in the papers, and I am not aware that any Employers' Association I am connected with has ever objected to it. That strikes are put in the papers is common knowledge, and if I had expected the question I would have brought the newspapers with me. Whenever there is a strike you will agree with me that there is a notice in the papers.

2793. (*Chairman.*) But not with the names of the persons engaged in the strike?—No, but you see the names of the employers connected with the strike. If they insert the name of the employer it is surely not unfair for the employer to circulate the names of the workmen. In *The Times* you will see a heading: "The men in such and such works in London have gone out on strike," and by and by you see "The strike has spread to such and such works," and the employers' names are published. Therefore why not publish the workmen's names too?

2794. (*Sir William Lewis.*) Is it not a common thing also for the workmen by way of advertisements in the newspapers to say: "The masons are on strike in Cardiff and all masons are requested to keep away from the town?"—Yes, that is very common, and that is the same as our sending out what they call our black lists. If you stopped one you would have to stop the other or course. As it is, you hardly can stop them for this reason, that supposing there was a strike of the South Wales Coal Trade, you would be very much surprised if you did not see that in your morning newspaper. I mean these things cannot be hidden. What the men call a black list, sending out a list of names, has another effect which is this: supposing that I want to take on a workman, say an engineer, and I have got a list of twenty men on strike at a certain place, it means that if the man's name is not on that list I may take him on. Some employers say that when there is a strike no employer should take on any men belonging to the trade that is on strike. That is, of course, a very much more cruel thing to do; by specifying which men are on strike you set free all the men of the same trade who are not actually on strike.

2795. (*Mr. Cohen.*) It would not be illegal, would it, for a number of employers to combine and agree not to take

into their employment any men who were on strike?—No, as I say, just in the same way that no men in the Union will go and work where the Union has declared that there is a strike.

2796. (*Chairman.*) I wish to know how far you carry that; do you consider it lawful for unionists to pursue non-unionists?—No.

2797. That is to say, when a strike takes place they endeavour to prevent, by peaceable means, those non-unionists being taken into employment, but when the strike is over do you consider it lawful for the unionists to go on against the non-unionists and pursue him from place to place?—In our Engine Works we have both union men and non-union men, and commonly in our case when there is a strike the non-union men go out with the union men, and the two work together in a perfectly friendly manner. A non-union man is not an anti-union man, a non-union man may act with the Union.

2798. I quite understand that?—There is no word on our side for what the workmen call a "blackleg," which means a man working in defiance of the men on strike, and that is quite a different thing to a non-union man.

2799. Then I will change the phrase and say "blackleg;" do you think it legitimate for the unionists to strike against a blackleg wherever they find him?—I should have thought not.

2800. You have agreed that during a strike the Union is quite justified in endeavouring to prevent, by means of a list or otherwise, persons from being taken on and employed. Are they justified in taking similar measures in order to prevent blacklegs being afterwards employed?—You mean that they would say, "You must turn out all the men who are blacklegs?"

2801. I mean refusing to work with a blackleg?—I should have thought that was not right at all myself.

2802. When you say "not right," do you mean that it is cruel or harsh, or do you think it is illegitimate?—The reason I use the words "not right" is that a great many things morally unjust would be very difficult to make unlawful; it is very difficult to prevent them by law.

2803. I am afraid that for the present we must put morals aside altogether; we are only examining now what the law is or should be?—I cannot see how to draw a law exactly to compel men to work beside a man they do not like to work with. Suppose you had ten men in a shop, and one of them worked during a strike and the other nine were out on strike, your question is may these nine refuse to work with the one?

2804. That is the first question: what do you say to that?—Supposing these men, without giving any reason at all, simply hand in their notices and leave my employment, what law in the world could hinder that?

2805. But supposing the Union delegate advised these nine men to throw down their tools and not work with the tenth, what do you say to that?—If they told us "You must discharge him," I think that ought to be illegal; they have no right to force this man not to earn his living; the contract is between me and him, but I am not aware that any attempt has been made to legislate on that point. It is a question we fight very hard as employers, and a thing we never give way upon, but at the same time I was not aware that any attempt had been made to legislate upon it. It seems to me a very difficult thing.

2806. There are cases in the books?—There have been cases where people have got damages.

2807. That is the case I want to put to you?—As I say, it is very unfair if a man is willing to work, and I am willing to employ him, because that is an affair between our two selves, and it is nobody else's business. To take a similar case, supposing I do not like a workman and pay him off, I have no right to say to you that you shall not employ that workman if I have finished with him. I remember the case of an employer discharging somebody he considered had behaved badly, and he wanted to say that no other employer should take him on, but we ruled that that was not just, and we said, "No, you may get rid of the man yourself, but when you do so you are rid of him; you may say what you like about him, but if, after that, another employer takes him on, we do not think, as an Employers' Association, that we can object to that, and you cannot hunt the man to death."

2808. Do you not recognise that the Union may consider the presence of non-unionists in the trade an injury to themselves?—They often do, they often will not work with them.

2809. It is therefore to their interest that the non-unionists should not be employed?—They think so.

2810. Should it be permissible to them with that purpose in view to refuse to work with a non-unionist?—If they leave we cannot compel them to stay on, of course.

2811. Is it permissible for a Trade Union to advise their men not to work with a blackleg?—I suppose amongst themselves they can advise them what they like; we cannot compel them so stay on. We can keep the unpopular man on, and get other men to work with him, but if they do not work themselves then they ought not to hinder us in getting other men instead.

2812. You use the word "hinder"; supposing the hindrance is in the form of their advising their own members not to work with a non-unionist, is that to be permissible or not?—Yes, I suppose that that might be.

2813. Then supposing that they succeed in getting a non-unionist or blackleg not employed, and that he goes to another shop, may they do it again at that other shop?—It is a difficult matter to say how far that may go, because, of course, I am not prepared to follow that out; we have our own way of dealing with these questions as employers and we do not find the law very helpful, but we find our way fairly effective.

2814. If you will not say whether it should be permissible or not, would you be prepared to place it in the power of the court to judge according to the circumstances whether it should be actionable or not?—I should think it would be quite fair to place the power with the court.

2815. Would you be willing in your own interests, where there is any question of actual breach of law, for the court to hold that what you have done, having been unreasonable, should, therefore, be actionable?—In what case?

2816. Any case?—Strikes in themselves are acts of violence altogether, and to make minute legal restrictions and to legislate about these strikes is a difficult thing. To my mind, I would rather go in the opposite direction altogether.

2817. May I interrupt you. I am not proposing to you to make any minute and subtle law; I am asking whether you would place it absolutely in the discretion of the court, on a consideration of the circumstances, to say whether the action had been lawful or unlawful?—On that particular question I would prefer to leave the law exactly where it is now.

2818. Will you answer the question? Are you prepared to put the matter absolutely under the control of the court?—Speaking broadly, I have got great faith in the justice of our courts, and I think what is left to the court is usually decided justly and wisely. That is the experience of us as the laity.

2819. Still you have not answered my question: Would you give them this absolute power to settle the matter according to their own discretion as against employers or employed?—Whatever applies in the one case I would certainly apply in the other case, but of course in a thing like that one wants to think over a number of cases and as to how it would work out. I think if that question were put to a lawyer, he would probably take time to give his opinion, and I, as a layman, may claim to take as much time as a lawyer to make up my mind on a difficult legal question.

2820. There are two points of view. Do you think that the workmen or employers would have ground for complaint against a law which would place their fortunes in the absolute control of the court according to its discretion? That is one point, and the other point is this—do you think such a law is a practical law?—No.

2821. Or how can the workmen know how to behave themselves according to the law, or how can the employers know how to behave themselves according to the law, as long as it is absolutely discretionary to the judges?—I do not think it is practical.

2822. (*Mr. Cohen.*) If you left matters of this grave character to the determination of the judges without definite rules to guide them what do you think the result would be?—I do not think the law would be practical; I have no doubt that whatever powers are given to the judges they will use them well and wisely and probably better than anybody else, but I do not think that law would be practical. The fact is that a strike is a savage thing altogether and you cannot bring it within the scope of the refinements of the law very well.

2823. (*Chairman.*) Do you understand the refinements of the law of conspiracy to injure?—The way I commonly understand it is that the law as to conspiracy simply means that that which one man may do a number of people may not always combine to do.

2824. There is great strength in the word "always," is there not?—Yes.

2825. You would not wish the court to have the power of saying that anything whatever which was done by more than one person might be pronounced unlawful if the court saw proper?—I should have thought it was a rash thing to give the court that power. Of course we often think that the interpretation of the law is more wisely managed than the making of the laws.

2826. Have you any other point?—The only other point, speaking broadly, going back on the fact that certain Bills were sent to me to ask what I thought about them, is that it seemed to me that the whole tendency of that legislation was to facilitate strikes and stoppages. My impression is, that that is a very grave responsibility upon Parliament and they should do what they can to make strikes as difficult as possible. Strikes are not of advantage to anybody. Trade unions more and more feel that they can get what they want without stoppages and especially without violence in stoppages, and we ought all to try to discourage strikes as much as possible. Strikes are very much fostered by the action of outsiders and by an unhappy public opinion, which is very often and very wrongly in their favour, and of course the highest opinion of the country is that of Parliament, and to legislate to facilitate strikes is making workmen more and more look upon strikes as the proper and right way of settling their disputes, and that applies to employers also, whereas to my mind we more and more find that the disputes can be settled without stoppages at all.

2827. You would acknowledge, I suppose, that the power to strike is the one weapon which in extremity workmen have?—No, I deny that, taking the power to strike in the sense that we have agreed is its meaning. There is the fact that a man may leave work, but the power of stopping other people working is, I think, not a matter of any great importance to them. I look at the way Unions keep me in order, and I am much more kept in order by the fact that so many thousand men have agreed that they will not work below a certain wage than by the fact of their striking. Supposing I wanted to start an iron foundry, I should say to myself, "Well, the union rate of wages is so much a week, say 39s. a week, and I cannot get men for less; there are not enough non-union men to enable me to work a first-class foundry," and so I make up my mind that if I start a foundry at all, must pay 39s. a week or I cannot get my men. The fact that they have agreed on a rate of wage and will not work for less is their power, not the power to strike.

2828. (*Mr. Cohen.*) So that you think collective bargaining is a matter of the greatest importance?—Collective bargaining emphatically is a matter of the greatest importance. I am all for Unions, but my impression is that if unions and employers were encouraged a little more, they would be able to do their work, so that stoppages would be the rarest things in the world.

2829. (*Chairman.*) Supposing the workmen are wrong in imagining that the power to strike is their only weapon, you will not deny that they think so themselves?—I think they think so less and less; I daresay that nobody who is not an employer of labour realises the enormous number of disputes that are settled amicably. What induces men to accept a reduction of wages is not so much the fear of being locked out, as the fear that employers will not get orders and that they will be paid off by there not being any work for them to do.

7 Dec. 1904.

Sir Benjamin
C. Brown.
7 Dec. 1904.

2830. If workmen do think that the power to strike is their only means of protection, do you not think they are right in agitating that full freedom shall be given to them to use that weapon, provided only that they do not infringe upon anything which the law lays down?—Of course a great many employers think the power of locking out is of quite as much importance as the workmen think the power to strike, and I think there is nothing to choose between the one side and the other side. Whatever legislation is fair for one side ought to be made absolutely fair for the other side also, but the great thing, as I think I said at first, is to consider much more the rights of non-combatants and not to sacrifice everything to the rights of the combatants.

2831. That is a political or moral object rather than a legal object, which is our special consideration. Have you anything else to say?—No.

2832. (*Mr. Sidney Webb.*) First of all, as to the state of the law, many people think it is in an extremely confused and unintelligible state. Would you think it any advantage that the law should be stated clearly, whatever the law may be?—As an abstract question I suppose it is always better for laws to be stated clearly.

2833. Have you found any inconvenience, with regard to this matter of employment, from the ambiguities of the law as to what is permissible under the law as to workmen?—Sometimes we do not know what the law is.

2834. And it would be an advantage, would it not, if the law could be made more clear to workmen, so that they might know what they were allowed to do, and what they are not allowed to do?—Yes, I suppose in the abstract it is always better for laws to be clear than for laws to be obscure.

2835. Further, you suggested that although the law of agency should certainly be on the same footing for employers and for workmen, it might be open to consideration whether under some circumstances the existing law of agency did not work harshly?—I think so.

2836. For instance, were you thinking perhaps of the indefinite liability of an agent, and that although a coachman has a very clear limitation of his liability, yet there are other agents whose scope is not so well understood?—I think that may be so; I think perhaps it would be better if the position of an agent was somewhat more closely defined than it is.

2837. If you get a class of men growing up who are in the eyes of the law agents, the scope of whose duties has not been defined, there may possibly be a certain hardship in the present law of agency with regard to those persons, may there not?—And with regard to other people too; one does not see any new class springing up, but of course you may.

2838. For instance the class of Trade Union delegates, which is a new class, in the sense that the judges have not very far considered what is the scope of the duty of a Trade Union delegate: would not that be a new class in that sense?—A Trade Union delegate is very often a member of a local body, he is very often a member of a co-operative society, occasionally he is director of a company and he is very often a man who participates in the duty of an employer in many capacities. In this case he is an employee more than an employer.

2839. But as an employer there is not any manual or explicit definition of what is included within the duties of a Trade Union delegate, is there?—I should think that in the last twenty years there have been a vast number of public companies or local bodies whose duties have been quite as novel, or have changed quite as much as those of Trade Union delegates.

2840. I think so too, and in those cases (let us take them) the scope of the law of agency is still rather uncertain, is it not?—I quite agree with you, and I think, perhaps, it is time that the whole position was reconsidered. All I plead for is uniformity in every case.

2841. As regards that uniformity of submission to the law, which I quite agree with, with respect to liability for torts, you would wish a Trade Union to be put in exactly the same position as any other corporation, or corporate body, or combination?—Certainly.

2842. Would you extend that same equality before the law to other relations of the trade unions? Supposing at present a Trade Union is not allowed to enter into a contract with an employer or with an Association of employers—a Trade Union is disabled from entering into a legally enforceable contract with your Association or any of them?—I was not aware of that.

2843. Supposing that that be so, would you see any objection to a Trade Union being as free to enter into a contract as any other body of men?—One would want to think that over, of course; on the face of it, it sounds quite fair that they should have the same powers.

2844. At any rate, they could not be put on the same footing before the law as other combinations of men, unless they were given that power?—No. You are on new ground to me, but speaking broadly they ought, as I say, to be on an equal footing, and I am quite sure the more equality we get the more smoothly things will work.

2845. Take the question, for instance, of a friendly society which collects a subscription from its members, those members have entered into a contract with that friendly society to pay that subscription, and the subscription can be enforced by legal means. In the case of a Trade Union that is not so. Would you be in favour of a Trade Union, if it is put on the same footing before the law as other groups of men, being given the power to enter into a contract with its own members?—I suppose a friendly society acts under the Friendly Societies' Act?

2846. Yes?—Well, you would want a special Act of the same kind for Unions. I mean that Unions are friendly societies.

2847. In effect, yes?—Absolutely, I mean; they provide for sickness and old age and other things.

2848. I only mean they are not registered under the Friendly Societies' Act?—I do not see why anybody should object to there being special legislation to enable them to get additional security for their funds or anything of that sort.

2849. And there is a further point; at the present time a Trade Union is not able to require its member to continue to pay the subscription which he has promised to pay except by means which are not legal, and therefore the Trade Union, it is said, is sometimes tempted to employ means which are not legal in order to require its members to continue to pay their subscriptions. Now my question is whether you would not think it desirable that a Trade Union should be put in the same position with regard to the subscriptions of its members as a friendly society?—I would like to see what the friendly society law is, because it might want to be altered, but speaking broadly, one does not see why Trade Unions should be treated as outcasts or as inferior bodies in any way to other people. Mind, I do not know how a friendly society can enforce its demands; I thought that if a man did not pay they could merely strike him off the books.

2850. Take the case of an insurance company?—If my life is insured they cannot force me to go on paying.

2851. Pardon me?—If I do not go on paying all they do is that they forfeit the principal.

2852. But they have an actual contract with you?—The life insurance people?

2853. Yes. However, we will not pursue that. You have told us very candidly that you have known in many cases that a union has had a good influence over its members?—On the whole, decidedly.

2854. And that, unfortunately, although you have not said so, sometimes the Union does not manage to induce or persuade some of its members to follow the wise policy which the Union as a whole may have arrived at?—We have sometimes found cases of that—notoriously.

2855. So far as that is concerned would there not be an advantage in the Trade Union being given rather more authority over its members. At present it has no binding contract with them?—That is a new idea to me, but I think very possibly what you say is quite right, and that it would be better; we have had very serious cases of sections of Unions refusing absolutely to follow the guidance of their leaders.

2856. And you, of course, are speaking from experience of a part of the country and the kind of trades where Trade Unionism is particularly strong and well conducted?—Yes, but at the same time in my younger days I have known of large bodies of men who were absolutely outside Trade Unions.

2857. You have told us that Trade Unions do manage very well to get a large part of what they want without resorting to a strike?—Yes, I think in the main they get about all that it is fair for them to get, and as a rule they get it in a more far-seeing way and much more smoothly than non-union men would do.

2858. And therefore, on the whole, speaking very broadly even in the Tyne-side district the Unions have probably, made for peace?—I have no hesitation whatever in saying that all over the kingdom they have made for peace.

2859. You used a characteristic expression, that if you were starting a new factory the Union would keep you in order, at any rate, as far as wages were concerned?—If I want an article I must pay the price at which it is sold: they have all agreed together and to make it quite clear, I put it in this way; if the men pitch that figure too high, sooner or later there will be so many of them out of work that they will have to reduce it. I might try to persuade them beforehand to reduce the figure by pointing out that they will lose work, but the figure has to be agreed to between us.

2860. I now want you to carry your mind beyond the range of the trades with which you are now associated to the very large part of England where the Trades Unions are much weaker in numbers, and where they hardly exist. Let us take the women trades; there are four million of women workers, and you would not say there that the Trade Unions at present are sufficiently powerful or well organised or wise to secure for the women workers the corresponding advantages which the iron trades have secured?—I am informed that they are not; Trade Unions form quite a minority of the working men of the country in point of numbers.

2861. Passing on from the women to the case you named to us of a railway, a large proportion of the railway men are not well organised, or indeed are not in union at all?—Yes, the majority, I believe, are not.

2862. And therefore there might quite possibly be cases in railway employment where a railway company would seek to impose unreasonable conditions on the men, possibly by inadvertence?—Of course people might agree about a rate of wage without being in a Trade Union.

2863. And they very frequently do?—And, of course, strikes might be got up and organised by non-union men just as much as by union men, and some of the worst strikes I have seen have originated in that way.

2864. Strikes in Newcastle, for instance, have several times in history been got up very largely by non-unionists?—In old times.

2865. Considering the case of a railway, you very justly enlarged on the grave and serious public damage which the stoppage of a railway inevitably causes?—Yes.

2866. And you suggested that in some way or other Parliament might discourage strikes, or at any rate not facilitate strikes in connection with a railway?—Yes.

2867. And you even suggested that whereas an individual worker on a railway might be allowed to withdraw his labour, he ought not to seek to persuade other men not to go on to the railway?—He should not try to stop other men taking the employment which he has vacated because it causes such a serious national damage if he does.

2868. I largely agree, but if you put the workman in these nationally indispensable industries in a different position from the workman in the other industries, how would you suggest that the interest of the workmen in these particular industries should be secured?—Suppose you take the case of engine drivers or railway guards, or anybody of that sort, these men might think their wages too low, and there is nothing to hinder these men leaving and going away.

2869. That is the case with regard to every other business everywhere, but in every other business there has grown up in the course of the past one hundred years a system of collective bargaining and collective withdrawal of labour which are called Trade Unionism and strikes for the protection of the workmen; they may be wrong but they have developed it. Now, what I am anxious to know is—what would you suggest should take the place of that in these indispensably necessary trades where a strike cannot be allowed without grave public injury?—I do not say that I would not allow men in these works to be members of Unions at all, but what I say is that when they leave work they should not be allowed to hinder people taking their jobs.

2870. But, speaking broadly, you suggested that these trades were so important to the community that there should be some distinction made between what the law should allow to workmen in these trades compared with workmen in other trades?

2871. (*Chairman.*) May I interpose for one moment. I think I understood you at the end to say that was not your view. I think you said you were dealing only with the subject of picketing as was proposed in the Bills under your consideration—that you considered that further facilities for picketing were very undesirable and most of all undesirable in the particular trades you mentioned?—Exactly.

2872. (*Mr. Sidney Webb.*) Then beyond that question of picketing you would not really propose to put the men in railway service or waterworks service under any other conditions than the workmen in any other service?—I do not want to hinder their leaving their work, as that would be making slaves of them, but what I want is that when they have left their work they must not hinder other people taking up their jobs if they are willing to do so.

2873. And you propose that that condition should be put upon them in a different way from what you would put it upon other workmen?—I think I should. I put it in this way: there are two points where they should be different in the case where an employer is compelled by law to carry on his business. For instance, I might stop my factory for a week to repair the machinery, and nobody could say a word to me, but a railway cannot stop for a week to repair its machinery. Again, taking a workman in my employment as a manufacturer, his employment is only provisional on my getting contracts, and that is an unwritten law between us, but the railway guard and engine driver is kept on for all time absolutely, and there is no question of getting contracts; his work is on a much more secure footing.

2874. Whatever may be the arguments, we have got if from you that you see a very great importance in not placing the workmen in these particular industries under exactly the same conditions of freedom as the workmen in other industries?—I would rather put it in this way: as I say, certain Bills were sent to me to see what I thought of them, and if I were asked as to the working of these Bills as Acts of Parliament I should say that the effect of them would be undesirable in all cases, but their effect in the case of railways and waterworks would be simply ruinous.

2875. May I pass to another point. As to a sympathetic strike, as it is called in short, assuming that a strike ought to be allowed to be legal under ordinary circumstances, you would not see any reason for making it illegal, I gather, if it were merely what is called a sympathetic strike; that is to say, if the workmen had no quarrel with their own particular employer, but determined to give in their notices in order to put pressure on other employers in the trade?—I should like to have that case put rather more precisely; I have known a good many strikes and I should like, if I could, to bring it down to a more concrete case. Suppose I treat a workman badly and my men go out on strike?

2876. Then you, being very strong and very obdurate on the subject, maintain your position, and the workmen, in order to strengthen themselves, determine that they will strike the whole of the shops on Tyneside; ought that to be made illegal?—No, I would not go and make new laws about it.

Sir Benjamin C. Browne. 2877. At any rate, assuming a strike is legally conducted in every way, you would not suggest that it ought to be illegal merely because of its object—the men's object?—You must observe we are on the side of leaving things alone, not of new legislation. It was not the employer who disturbed the existing state of things, you know.

7 Dec. 1904.

2878. The existing state of the law is not clear; there are contrary dicta and contrary opinions and the question is in what way should that be straightened out. I understand that you do not think that the legality of a strike ought to be limited by a mere disapproval of the objects of the strike?—No. To begin with, one or more men may leave work whenever they like when they give due notice and you cannot get over that fact by any just law.

2879. And similarly therefore any combination of men may agree among themselves to leave work?—Yes.

2880. And just as the individual workman may cease work for any reason or no reason, or a bad reason, so you would wish the men to have the freedom to agree among themselves for any reason or no reason or a bad reason?—Well, what they do may be exceedingly wrong and exceedingly foolish, but if a man can leave work at a week's notice you cannot ask what his reasons are for doing it, and you cannot limit the number of men who can leave work. A man may leave work for the most foolish or wicked reason, but I cannot see how the law can stop that. In our works the men can leave at a week's notice, but at many of the works on Tyneside the men can leave at a day's notice.

2881. Supposing that one man declines to work alongside a red haired man, apparently a whole group of men might decline to work alongside a red haired man, and you would not wish the red haired man should have the right of action against them?—If they give no reason about it and simply go away, I do not see how you could stop them, but I believe as the law stands, if they give the reason that they will not work alongside the red haired man, the red haired man has a right of action.

2882. Do you wish that law to be maintained?—I do not want any law to be altered particularly myself.

2883. But I am anxious, of course, to get suggestions as to how the law should be straightened out and apparently you suggest that the law had better not be altered if it forbids a group of men agreeing to refuse to work, because they do not like one of their fellow workers?—The law certainly ought not to allow a large number of men to coerce a small number of men; the use of the law is to give workmen the largest possible amount of freedom, and therefore a thousand may combine to do what they like, but they have no right to coerce one man to do what he does not like.

2884. By "coerce" you mean "put pressure upon," to do what would otherwise be justifiable actions, that whereas one man might be permitted to do it, if a thousand men attempted to do it, it might be another question in the eye of the law?—It is a very strong measure for one man to do it; if I came and said, "I will not work alongside that man," that would be a very offensive thing for me to do, and if a thousand men were to do it, it would be still more offensive. If I say nothing and go away, that I have a perfect right to do.

2885. And you would not object to the one man saying it on his own account?—If a man came to my works and said, "I will not work alongside so and so," I would say, "That is a very strong and very offensive measure: what is your reason?" But if he said that the man was a thief or a pickpocket I might think that he had an exceptional reason for taking exceptional action.

2886. Where the workmen have a moral disapproval of an individual, you think that would be permissible?—I do not say permissible, there are cases of course.

2887. But you have suggested that if he were a thief it would make a difference?—I might look on that as sufficient reason for his taking irregular action, but there is no doubt that the action is irregular and requires justification. It would be better for him to come and say to me, "Are you aware that is not the sort of man who ought to be in the works?"

2888. Supposing a Trade Union had a man against whom they had a strong moral objection, and they came

to you and said, "Are you aware of this, and that this man ought not to be in the works?" Would you think that was not a reasonable thing for the Trade Union to do?—That depends on what the objection was.

2889. I take it that it is a moral objection?—Supposing they said this: "This is a man who has been always stealing the workmen's clothes." I would say, "If that is so, I quite see that I must not ask you to work with him."

2890. That is if the men had an objection against him which you thought was a moral objection?—Yes, because the contract is between me and that man.

2891. But you would not think it right for the trade union to come and make a complaint if it was a complaint they thought to be a moral objection?—If they do not like the man they need not employ him themselves, but it is not a question of their employing him—it is a question of my employing him.

2892. It is not a question of a man actually getting wages, but a question of the man spending his life in your works?—Yes.

2893. How far would you wish a man's freedom to go in saying what condition he would spend his life in?—Put it in this way: Suppose a man is a very bad workman I will not employ him, or supposing I think a man an undesirable man to be in my works, or that he is not worth his wages, I do not employ him. If anybody brings to my knowledge that he believes it not to my interest to employ that man I may not employ him, but it lies between two of us, and outsiders can only persuade us; they must not coerce us.

2894. You do not object to their persuading you?—If they come they can say what they like if there is a man in my employment and you can persuade me that he is a dangerous man to have about the place. I think that is reasonable.

2895. There is another point, and that is the question of the black list. The black list which the employer sends to another employer is the employer's form of peaceful picketing, I think you said?—What I said was that it answered to the advertisements put in the newspapers that there was a strike in such and such works.

2896. Pardon me; you said that it was "our form of peaceful picketing"?—I do not mind adopting those words, if you like.

2897. At any rate you would suggest that if picketing, watching and besetting, were absolutely put down by law, the employers sending lists of strikers might very reasonably be put down on the same footing and prohibited?—I would be quite willing to pay that price for it, but it is not quite on the same footing for this reason. It is on the same footing as the men circulating the knowledge that an employer is on strike. Supposing it is lawful for the men to put in the newspapers, or to placard in any other way, that my workmen are on strike, it is only the corollary for me to say that such and such men are on strike. In the first place the workmen say, "Sir Benjamin Browne's men are on strike," and I reply, "Yes, and the men that are out are A, B, C, D, E, F, and G."

2898. And the two things are on one footing?—Yes.

2899. And therefore if the law should make it illegal or actionable for the workman to placard the name of the employer, the law in justice should make it illegal or actionable for the employers to circulate the lists?—I do not see how the first would be possible, mind you.

2900. You have not answered my question, that you would wish to see the two put on an equality?—As I say, I do not see how it is possible.

2901. To put them on an equality?—On an equality, but the equality consists in this; you cannot compel people by law to keep a secret, and I think that is self-evident.

2902. Let us keep to the point, pray, that the placarding of the names of employers against whom there is a strike ought in justice to be put on the same legal footing as the circulating of the lists of the strikers by the employers?—The two should be on the same footing, but, mind you, it would be quite impossible. If there is a large strike in a great colliery how can you keep that out of the newspapers?

2903. Let us pursue the possibility if you desire it: supposing it was considered just to put them on the same footing, do you think it would be possible to enforce the law preventing employers from circulating lists?—I think if the law declared it unlawful they would not try to do it. I attach very slight value to that method of circulating names; it is the custom, but I do not attach much value to it.

2904. (*Mr. Cohen.*) What you mean is that if one is prohibited the other ought to be also?—If you could keep the one secret you might keep the other secret, but it is impossible to keep that secret, which is known to a large number of men.

2905. (*Mr. Sidney Webb.*) But if the law intervenes in such cases at all it must act equally?—You see now we have no means of enforcing that black list. We know perfectly well when there is a strike; if only a small number of the men go on strike, there is no difficulty whatever in their getting work somewhere, but if several thousands go on strike there are not places for them in the country. Supposing I was to circulate the information that a dozen men were on strike, I have no means of hindering anybody from taking these men on.

2906. You very frankly told us that in your Federation the employers had a system by which they, in proper circumstances, gave help to individual employers against whom the men were striking?—Yes, if we think they are unfairly pressed.

2907. Supposing that an employer whom you were helping in that way were to take into his employment some of the men whose names you had circulated; for instance, supposing men are on strike at two places, and you circulate the list of names of men on strike, and employer A, who is struck against, gives work to the men who have struck against employer B, would you continue to give him that pecuniary assistance which you had given him in that first instance?—Speaking personally, I should certainly go on giving him assistance, and I should be delighted. I should say that it showed some of the men on strike were going back to work on the employers' terms.

2908. Supposing it was on exceptional terms?—If A and B are both on strike whether they take back their own men or each other's men makes no difference.

2909. Unless they give way to the men: supposing an employer gives way to the men?—If he gave way to the men then of course there would be no call to give him further assistance.

2910. And you would withhold the assistance?—Because he can get back his own men again.

2911. But he might only be able to get back some?—What is to hinder him getting back his men? I cannot conceive the case. If he gives way, of course, he gets his own men back again.

2912. But if he does not give way?—Then of course we go on assisting him; if you and I are two employers, and both our men are out on strike on the same footing, if my men go to work for you it is just as good as if they came to work for me, as it shows they are working on the employers' terms.

2913. You suggested that it would be far better to try to make strikes difficult; have you any suggestions with regard to that, for instance with regard to facilitating the extension of collective agreements in different trades, or anything of that sort?—I have no definite suggestions to make about that; the Board of Trade intervention has not been a great success for some reason.

2914. Whilst you on Tyneside have a very elaborate system in many trades?—It is all England you know.

2915. But upon Tyneside particularly you have a very elaborate system of collective agreements and negotiations with your men, where you allow and encourage the Trade Union leaders and officers to take part, but in other parts of England they do not allow the Trade Union officers and leaders to take part, and they have no such elaborate system of agreements?—In our trades they do it, and the Engineers' Federation applies now to all the kingdom, and the same with the shipbuilders.

2916. When you say "in our Trades," what do you refer to?—Both Shipbuilding and Engineering.

2917. What about coal?—The Northumberland coal trade is one union and the Durham coal trade is another. *Sir Benjamin C. Browne.*

2918. There you settle things to a large extent by joint negotiations between the employers and their officials, and the workmen and their officials, do you not?—Yes. 7 Dec. 1904.

2919. And you have found that work, on the whole, well in preventing many disputes?—Very well on the whole.

2920. Have you any suggestions with regard to that—with regard to other districts in which they do not enter into collective negotiations with the Trade Unions?—I think not in the way of legislation; I think we must trust to public opinion for doing that, but of course legislation has a great effect on public opinion, and it is very desirable that in all legislation you should take care that you do not give the public a wrong lead in the way of sanctioning things that are undesirable.

2921. You would think it desirable, as far as any lead is to be given, that it should be in the direction of encouraging collective negotiations in each trade in each district?—My own impression is that collective negotiation is the most satisfactory arrangement.

2922. And by that you mean negotiations in which the responsible leaders of the Trade Unions take a large part?—That is what I mean.

2923. And therefore, when the Government of the country, which is a very large employer, absolutely refuses to enter into collective negotiations with Trade Unions—in your own trade, for instance—in shipbuilding—you would not consider that setting a good example?—The Government service is so very different to ours, because they give pensions, they let the men work shorter hours, and a great many things.

2924. Still it sets the example against collective negotiations?—No, I do not think so, the service is so different.

2925. Not when the Government declines to talk to any, except its own servants. You know that sort of thing among bad employers on Tyneside—that they refuse to meet any but their own workmen; but you have given that up on Tyneside, and you are now willing to meet the representatives of the workmen?—Yes.

2926. Do you not think that when the Government takes up the cry of the old bad employer, who refused to meet anybody but his own workmen, that, perhaps, gives a wrong lead to public opinion?—Conceivably it would be better if the Government put themselves on exactly the same footing as other employers, but the conditions of the Government service are extraordinarily different. For this reason, take the one case, that the Government gives pensions and we do not.

2927. As regards the private employer—passing from the Government for the moment—you see no reason why the private employer should not be willing to negotiate with the responsible officials of any decent Trade Union in his trade?—I have always advised employers myself that we get on far better when we go through the Unions than when we act independently of the Unions.

2928. (*Sir William Lewis.*) You have answered a great number of questions, but am I right in summing up your replies to the effect that you are desirous not to have any further legislation?—As far as possible that is so.

2929. In the direction of the two Bills of which you have had information from the secretary?—Certain Bills, certainly—more than two.

2930. You prefer, from your experience of working with unionists and non-unionists, that matters should remain as they are?—On the whole, I think they had better remain as they are.

2931. With respect to entering into contracts with Unions, has it occurred to you how you could enforce, or get the Union to enforce, an arrangement which they might enter into on behalf of the Union?—What sort of arrangement?

2932. Any arrangement. Supposing a union composed of 100,000 men entered into an arrangement with the union of the employers that the workmen should do this, that and the other at certain prices, and suppose a number of the men declined to do it, how could it be enforced?—Of course they have got a rough-and-ready way of enforcing it.

Sir Benjamin C. Browne. 2933. Pardon me ; if I understand aright, your arrangements in the North are the same as they are in South Wales ; the arrangements between the representatives of the employers and the representatives of the workmen are not with the union *per se*, but with certain persons representing certain workmen, and in addition to that there is a personal contract between each employer and the particular man's business ?—There is.

2934. But there is no means, so far as my experience goes, and I ask you whether yours is the same, of enforcing anything that you may agree to with any representative of the Union ?—No, there is no doubt our arrangements with the Unions may be called understandings or arrangements ; they are not legally binding a bit. It would be absolutely impossible to enforce some of the arrangements we make with the Unions, but we rely upon good faith, and it is perhaps satisfactory to point out that that good faith never breaks down, even in times of strike. We take for granted that what they say they will stick to, and we find they do so in the Unions.

2935. With respect to unionists and non-unionists, are you of opinion that the increased power of the Union would be the means of working great hardship upon people who have no desire to enter their Unions ?—The Union ought not to be given any power over the non-unionist.

2936. They have the power of forcing men out by refusing to work with them, as they are constantly doing at the present time ?—But that is not a power given to them by law ; that is a power which the law has not succeeded in stopping.

2937. But Mr. Webb asked you whether it would not be desirable that the Unions should have increased power ?—Over their own members.

2938. If they had any increased powers they would force men, who now prefer being outside, into the Union ?—They must have no power over outsiders. I understood Mr. Webb to say that he wanted them to have more power as regards their own men, as to paying subscriptions which were due, and that sort of thing. That is, of course, a different thing, and I do not see quite on the face of it that they should be different to any other friendly society, but that would not apply to giving any power over non-union men.

2939. Can you suggest any fair means of protecting non-unionists who are squeezed out of their employment by unionists refusing to work with them ?—I have never been able to think of any very satisfactory means of doing that ; the most satisfactory way seems to be that certain works should be non-union works and certain works should be union works, but that is a thing you cannot effect by law.

2940. At all events, you would agree with me in thinking that it would be a great hardship that a man should be forced into the Union in order to enable him to get employment ?—That seems to me to be a hardship, if he has any good reason for not joining the Union.

2941. (*Mr. Cohen.*) There are a great many hardships which cannot be prevented by law ?—A vast number.

2942. And there is a great deal that is unreasonable and undesirable which it would not be wise legally to prohibit ?—There is a great deal you cannot legally prohibit of course.

2943. It has been laid down by two noble Lords in the House of Lords that Trade Unions can generally sue and be sued, and their funds be made liable ; I need not go into the reason for it, but that is their opinion. If that is the case, would there be anything to prevent an agreement of reference between employers and a Trade Union representing their members, and the award being enforced in a legal way ? Do you understand what I mean ?—Perfectly.

2944. There would then be no difficulty in making the funds of the Trade Union liable for breach of the award ?—Speaking generally, I should have no fear that if the Union agreed to a reference they would carry that out whether the funds were liable or not ; I should not, myself, be seriously afraid of the Union backing away from a thing they agreed to, whether the funds were liable or not.

2945. (*Sir William Lewis.*) You are aware of many cases where the workmen, after agreeing to arbitration, have declined to abide by the award ?—I have known of one or two such cases out of a very large number, and in those cases it was very remarkable to observe the way in which the other bodies of workmen were down upon them.

2946. We have cases where collieries were kept idle for twelve months after an award was given and the men declined to abide by it ?—In that case certainly the funds ought to be liable because that is not fair at all.

2947. (*Mr. Cohen.*) In such a case the funds might be made liable ?—Certainly.

2948. (*Sir William Lewis.*) How could you enforce the award as against workmen ? Taking the case put by Mr. Cohen how could you enforce it ?—Against the Union as a corporate body. I suppose you would proceed against their funds as against the funds of a Company.

2949. The workmen would not be bound to work ?—No but you might put them under a penalty of so much a day.

2950. The men themselves ?—You might put the Union under a penalty of so much a day.

2951. Would you do that with the knowledge that you could not compel the men to work ?—I should think that is all you could do.

2952. (*Mr. Sidney Webb.*) If there is any impediment in the Union doing that by statute, you would suggest that it would be better to remove that impediment ?—I should think the Union would be stronger if it was legally bound to carry out its own actions.

2953. Its own agreements ?—Its own agreements

Mr. GEORGE RITSON called and examined.

Mr. George Ritson. 2954. (*Chairman.*) You have been good enough to furnish to our Secretary a statement of the evidence which you are prepared to give, and I think I need not go into those particulars with you verbally. You are willing, I have no doubt, that this statement should be added to our records ?—Yes. *The Statement is as follows:—*

It is necessary that I should explain that I am not an employer of labour, but that I have been engaged in obtaining and superintending men in connection with the majority of strikes in the United Kingdom during the years 1893 to 1902. In 1893, I went through the Hull Dock Strike as shipping clerk, being engaged by Messrs. Wilson Sons & Co., Ltd. I was waylaid, attacked and injured by pickets, and had to be escorted to and from work by dragoons and mounted police in the discharge of my right to work unmolested. At its conclusion I became inspector, and took charge of non-unionists and employed them. In June 1898, I established and took charge of the Bureau of the Free Labour Association at Manchester, and up to my taking the superintendency of the employment bureau of a large electrical company in November, 1902, with whom I am at present em-

ployed, I had sole charge in personally supplying and accompanying men to the following disputes :—

Messrs. Elder Dempster & Co., Ltd., Avonmouth (Dockers).

Messrs. Elder Dempster & Co., Ltd., Liverpool (Dockers).

Messrs. Thomas Ashton & Co., Ltd., Hyde, near Manchester (Calico Printers).

Messrs. Mond, Nickel Co., Ltd., Clydach, South Wales (Chemicals).

Messrs. Ashton & Hyde, Tramway Company's Strike (Guards and Drivers).

At Llandudno and Settle Quarry Strikes.

Messrs. Galloways, Ltd., Johnson and Nephew, Manchester ; Broadbent & Co., Ltd. ; Sykes and Sons, Ltd., Huddersfield ; Carter & Sons, Ltd. ; Taylor, Lang, and Co., Ltd., Stalybridge ; Nicholson & Sons, Ltd., Newark ; etc., etc. Foundrymen and Engineers' Strikes.

These were dealt with exclusively by myself, and at some of them much violence, intimidation, and coercion, arose from the action of the Unions, through their pickets.

I also took the principal share in supplying, and on every occasion accompanying, the men to the Taff Vale Railway Company in their last dispute. I was the first to arrive, and to be picketed on the way, and on arrival at Cardiff station eight of my men were falsely misled and carried off, and the rest stoned by a mob of strikers on entering Cathay's yard. I was present with the Chief Constable of Cardiff in his office late at night when the news came of the assembling of a picketing mob at Newport, and I was in Newport Railway Station when the forcible boarding of the train from London took place. I gave evidence at the Law Courts in the trial between the Company and Bell and others.

I was at the Bristol Tramways strike; and witnessed the violence used at Stockton-on-Tees Engineering dispute; Pattern Makers at Dundee and Liverpool; Hull, Bradford and Doncaster, Moulders' Strikes; Carron & Co., Ltd., (Larbert, N.B.); the Midland; Great Western Railway Co.; Broadstones, Dublin; and several others, at most of which there were serious personal assaults and scenes of disorder, caused by picketing.

With reference to the proposed Bills, Clauses 2, 3, and 4, of Bills 7, 8, 55 and 91 (*vide Appendices, pp. 7 and 8*) are objectionable as providing means for legalising and conniving at the perpetration of outrage and intimidation, as sanctioning the power of any number of men to waylay, assault and coerce others in the exercise of their freedom to work, thus making it easy to create lawlessness and disregard of human life or property. The experiences of such strikes as are hereinbefore mentioned tend to prove these contentions. To sanction picketing in numbers is to encourage certain sections of the lawless community to take advantage of opportunity afforded for committal of crime. The proposal to grant permission to visit any place to picket is most reprehensible and dangerous. At Hull Dock Strike, pickets with a mob, for instance, gathered at a Mission Room where I was expected to be, and broke windows, etc.

Clause 4 is unreasonable and will work unjustly, as responsibility will be taken from the shoulders of the instigator and abettors for loss and damages arising from injury to person and property. A body of pickets, for instance, broke into a house of one of my men at Hull, destroyed the furniture and assaulted the man and his wife. No redress was obtainable, as the law was viewed at the time. Except from the point of view of intimidation and coercion, the necessity for picketing does not arise. All that is necessary for peaceful persuasion in truth can properly and easily be done by a "free Press" and the right of public meeting.

To pass any one of these proposed Bills without proper safeguards and ample modifications, and such alteration as will secure the full, complete, and unmolested freedom of the worker and employer, and place responsibility for wrong doing on proper authorities, will be but to encourage and sanction renewed violence and disorder, with increase of force and area, be detrimental to the best interests of labour, and injuriously affect employers as well as thousands of workmen who desire to be free and untrammelled in the exercise of their just privileges.

2955. If there is anything in particular you wish to add to your statement we should be glad to hear it from you?—I have prepared a good many illustrations of the difficulties under which non-union men labour during strikes, and particulars as to my practical experience in taking men into work and the difficulty we have had to encounter from time to time. I do not know whether you care to hear these or not.

2956. Will you tell me the points you wish to illustrate?—The point I have made with respect to the proposed Bills, Clauses 2, 3 and 4, is that they are objectionable as providing means for legalising and conniving at the perpetration of outrage and intimidation.

2957. I understand what you wish to state to us is the effect of the operation of picketing?—Yes. I went through the Hull dock strike myself and was not only attacked in the performance of my duty but knocked down and abused, and I carry marks of my abuse on the dock side in consequence of working for Messrs. Wilson. I take it that the proposed Bills will give the Unions the power which they thought they possessed prior to the Taff Vale decision.

2958. We will take the question of peaceful picketing first. You are aware that one object of these Bills is to declare that peaceful persuasion in picketing shall not be illegal?—Yes.

2959. What have you to say on that?—I object to picketing entirely as a matter of principle, and I hold that pickets can succeed in bringing to bear upon the working men who take their places by means of the Press and public meetings all the persuasion that is absolutely needful in that direction, and to establish peaceful picketing, as it has been termed, is only to create a state of disorder. My experience has gone to prove that right throughout from the Hull docks strike up to 1902. There is really no such thing as peaceful picketing. I have gone through two or three strikes (and I am bound to admit this for the Trade Unions), where there has been no disorder and no attack and where the methods have been reasonable. I could instance them if it were not taking up too much of your time, but the large proportion of the experience I have had of ten to twelve years' disputes is that there is no such thing as peaceful picketing; the thing is misunderstood.

2960. Supposing there is absolute peacefulness, what do you think of two men who stand outside a works in the case of a strike? Will those men not have the opportunity of speaking to the men at work four or six times in a day?—Yes, they would.

2961. And every day? Do you consider that that is felt by the workmen to be oppressive or an interference?—It certainly is, because the very first visit they pay to the men makes the men who are working aware that there is a strike and what are the circumstances of the strike, which is all that they claim the right to do, and there is no necessity for continuing day after day. It only means coercion.

2962. Do they think that the mere watching and besetting a house day after day is in itself oppressive and an interference?—It certainly is, as it has been understood; and is most objectionable, as men's houses have been visited by the pickets and their windows and furniture broken, and I could give the names and cases.

2963. (*Mr. Cohen.*) May I take it that you are clearly of opinion that generally where there has been picketing, that is watching and besetting the premises, that has been done with the intention and for the purpose of illegal intimidation?—Exactly.

2964. And that therefore it should not be tolerated in any case?—Not under any circumstances.

2965. That is really your evidence, and that is your clear opinion?—Yes.

2966. Your opinion is formed from your great experience in connection with strikes?—Yes, and I have a great mass of evidence to that effect here.

2967. It is desirable that you should know exactly what the Taff Vale case decided. It decided, you may take it from me, that if the executive or the officers of a Trade Union do an act which is wrongful the Trade Union may be sued and its funds can be made liable. I think what we want to know from you is—do you approve of that decision?—I do.

2968. And do you approve of it on the ground that the effect of that decision will be to make Trade Unions more careful in preventing their officers from doing acts which are wrongful? Is that your reason?—Yes; and I may say that my experience since that decision took place, in the last two years, goes to prove that is its effect.

2969. I understand you to say also that your experience proves that in a great many cases where wrongful acts have been done by the advice of delegates of Trade Unions you have not been able to recover any damages or substantial damages from the men who themselves did those wrongful acts?—That is so.

2970. And therefore you think that affords strong reason for holding that the decision in the Taff Vale case will be a salutary decision?—Yes.

2971. (*Chairman.*) And I understood you to say that you had observed that the effect of the Taff Vale decision has been to make the conduct of strikes more moderate?—Yes, more peaceful, and it really has obviated many strikes.

Mr. George Ritsen.

7 Dec. 1904.

Mr. George
Ritson.

7 Dec. 1904.

2972. (*Sir William Lewis.*) It has prevented them, you think?—It has prevented them. I am strongly in favour of Conciliation Boards in view of disputes, and I have advocated this for some years. I might add, if you will allow me, that I feel confident we shall have to come to that if there is to be any continued peace in the industrial world.

2973. (*Chairman.*) You have already expressed the opinion, have you not, that you are opposed to the Bills, so far as they would legalise peaceful persuasion and picketing?—Yes.

2974. And so far as they would propose to do away with the Taff Vale decision?—Yes.

2975. (*Sir William Lewis.*) Have you any suggestion from your experience that would assist us with respect to protecting non-unionists in cases where unionists decline to work with them?—Only reliance on the firmness of employers. Take one experience of a man being objected to by the Trade Unions. Not long ago a strike took place at Broadbent's, Huddersfield; a man who did small castings outside for them failed and Broadbent's took him into their works and gave him employment. He had not been there more than a few hours when the Union men went and told the firm that unless he was discharged they would refuse to work, as he was a non-unionist man. Broadbent's is a good old firm, which had treated their men well, and they said, "We never asked you whether you were Trade Unionists, or what you were, and you have always been well treated by us; this man has every right to work, and we are not to be dictated to, we are going to keep the man on," with the result that the unionists went out on strike. That is one of the cases in connection with which I said that I had had experience of peaceful picketing; the men there were absolutely peaceful and quiet, and if picketing was always like that we could do with it, but it is an exceptional case. Again, in Messrs. Sykes' works, in

Huddersfield, they refused to do work that went in there, because they said it was coming from Broadbent's; they said, "This stuff is coming from Broadbent's, and we are not to do it." Sykes said it was not coming from Broadbent's, but they went out on strike there too. We had no trouble in that matter.

2976. (*Sir William Lewis.*) Those were cases where the unionists supported the men in doing what they were doing?—Yes, they supported them; I think gave them strike pay. At the Hull Dock strike the same thing occurred; it was not a question of money, but purely and solely the question of the employment of non-unionists. They said, "You must not employ these men; if they have not the Union ticket we will come out on strike."

2977. What was the outcome of that?—We beat them; in that case there were scenes of the greatest violence and disorder, we had the soldiers down, and I have been accompanied myself between the Dragoons and the mounted police. I have been taken home in that way, and my wife to-day has not recovered from the effects of the strain and stress upon her nervous system seven years ago, caused solely by the pickets doing illegal acts, coming to my house at night, and so forth, with the intention of intimidating me from doing my work.

2978. Then you have no suggestion to make for our consideration that would remedy such cases?—The suggestion that I make is that the only feasible outcome from practical experience is that you will have to come to Conciliation Boards in the long run and so avoid these things.

2979. But what about picketing? Would you abolish picketing entirely?—Yes, I am against it altogether—root and branch, and always have been. I know that a great deal has been made about Clause 2, Section 7 of the Conspiracy and Protection of Property Act, 1875, and as to why it was not a good clause, but I am strongly against picketing altogether.

Mr. ANDREW THOMSON, Jun., called and examined.

Mr. Andrew
Thomson.
junr.

7 Dec. 1904.

2980. (*Chairman.*) You belong to the Scottish Furniture Manufacturers' Association?—Yes, I am a member of it.

2981. You have kindly furnished the Secretary with a *précis* of the evidence which you are prepared to give?—Yes.

2982. You have no objection to this *précis* being made part of your proceedings?—No, I am quite agreeable to it.

The Statement is as follows:—

ANDREW THOMSON, JUNR.—

Is a partner of Andrew Thomson & Sons, Port Eglinton Cabinet Works, 53, Crawford Street, Glasgow.

He was Chairman for a term of the Scottish Furniture Manufacturers' Association. He is, and has been, a member of the Advisory and Conferring Committees since the formation of the above Association in 1897.

He was Chairman of several local Conferences held between the Employers' Association and the Workmen's Federation.

He was a member of the Executive Committee of the above Association during a ten months' strike, involving members of the Glasgow, Dundee, Beith, Greenock, Renfrew, Lochwinnoch, Dalry, Kilbirnie and Kilwinning Districts. The last strike ended in January, 1899.

If the Bills (*Vide Appendices, pp. 7 and 8*) to legalise peaceful picketing, or any of the sections therein contained, became law, they would injuriously affect witness's business during a dispute or strike of Union workmen.

The workers who were not in sympathy with the action of the Union would naturally be afraid to continue or begin work, knowing that pickets would be at the gates waiting on their coming out.

Witness's experience of such picketing goes to show that when two or more pickets are in the vicinity of the works waiting on the non-union men coming out, they are usually joined by hundreds of other workmen from neighbouring factories, and that the windows of the adjoining tenements of dwelling houses are filled up with crowds of people shouting out filthy names, and frequently throwing rubbish out of their windows at them.

Witness is certain that the mere presence of pickets near his factory during a strike is sufficient invitation for other workers to join them, and that from such an assembly

intimidation, personal violence, and breaches of the peace usually follow.

At a Conference held in January, 1899, between the Conferring Committees of the Scottish Furniture Manufacturers' Association and the Workmen's Federation, the question that non-unionists and unionists should work harmoniously together was under consideration, when a prominent member of the unionists stated:—

"We want to make them members of the Society. We think that we are justly entitled to do so—the same as if a man had an infectious disease, such as smallpox. The officials must see that that man must be removed, and we claim the same right with non-unionists."

Witness is therefore persuaded that peaceful picketing is impossible. From witness's experience he is able to say that workmen are thus hindered from returning to their work, fearing personal violence from such hostile crowds as usually assemble at, or near, work which is under the care of pickets.

Witness considers that employers are now sufficiently protected by the existing law.

Witness's opinion might be summed up in this way: In the event of a dispute in any work the Trade Unions exercise their undisputed right and withdraw all workmen in sympathy with them, Union or non-Union. After this action on their part, witness would then object to any interference with the workmen who preferred to remain at work, and who were not in sympathy with the Trades Union in this dispute.

Witness would not object to the provisions in the Bill granting the Unions power for the purpose of peacefully obtaining or communicating information, or for the purpose of peacefully persuading any person to work or abstain from working.

Witness would most decidedly object to place such powers in the hands of any Union or association without some restrictions being devised whereby workmen would be protected from being approached every morning on their way to work, or again at the breakfast and dinner hours, and also in the evening, on their way home, and again in their homes. This repeated day by day during a strike is a direct interference with the freedom of workmen.

The law under such conditions is merely a pious expression that men will do certain things peacefully, and yet they would have the power to persistently annoy the men who are at work till working becomes intolerable under such conditions.

The whole aim and object of the Unions during a strike is to get the men out who have refused to join the strikers, and to prevent others from going in to work.

Witness is of opinion that all trade union funds available for strike purposes should be liable for damages done during a dispute.

2983. The first point with which you deal is the subject of picketing: you know the law on that point now?—Yes, I think so.

2984. You are aware that watching and besetting a house in order to induce a person to do what he is at liberty not to do, or not to do what he is at liberty to do, is now a punishable offence?—Yes, I am aware of that.

2985. Subject to the qualification that attending merely for the purpose of communicating or receiving information shall not be deemed a watching or besetting of the house?—Yes.

2986. You are aware that these Bills now propose that peaceful picketing for the purpose of peaceful persuasion shall be put on the same footing as picketing—meaning attending at the house or place of business—for the purpose of receiving or giving information?—Yes, I have a copy of the Bills proposed.

2987. What is your opinion on that point?—My opinion on that point is that peaceful picketing is an impossibility and that to waylay a man, either at the works or at his house or on his way home with a view to obtaining information or giving information, is a direct infringement of the liberty of the workman who chooses to remain at work.

2988. Is that your opinion merely, or is it the result of your experience?—It is the result of my experience and (carrying out the instructions of the unanimous executive) of the Scottish Furniture Manufacturers' Association. I am instructed, I might say unanimously, by the Executive of the Scottish Furniture Manufacturer's Association to state so here to-day on their behalf as well as giving it as my own private opinion from experience gained.

2989. You think that peaceful picketing is an impossibility?—I do.

2990. What is your opinion about picketing for the purpose of giving and receiving information?—I do not think that picketing under that particular phase can be carried out at all. My experience of that form of picketing which gives the Union, or a member of the Union, permission to approach a man to give or get information usually ends in threats.

2991. But perhaps you think it objectionable that for any purpose workmen should be authorised by the law to watch and beset the house of another person?—I do.

2992. (Sir William Lewis.) I assume from the answers you have given to the Chairman that you would advocate the abolishing of picketing entirely?—I would in all forms.

2993. May I ask how long your experience has been in managing men?—Over thirty years.

2994. And you not only speak for yourself, as you have stated, but also for your co-owners in this Association?—I do.

2995. (Mr. Cohen.) You say that peaceful picketing is impossible; some people might then say why should you not allow peaceful picketing? It can do no harm if it is impossible?—I think it is simply a term used to get permission to do a thing that they would not get under a different designation.

2996. Might I suggest that your real objection is this: experience has taught you and others that picketing, that is, besetting and watching premises, tends in almost all cases to illegal intimidation?—That is so, that is my experience.

2997. And that is the reason why, judging from your experience, you think it would be advisable to abolish picketing in all cases?—That is my view.

2998. (Chairman.) In your *precis* (Vide p. 190 ante, col. 2) you refer to a statement of a prominent Trade Unionist to this effect: "We want to make them members of the Society. We think that we are justly entitled to do so—the same as if a man had an infectious disease, such as smallpox. The officials must see that that man must be removed, and we claim the same right with non-unionists;" that is to say "we claim to serve in the same way non-unionists"?—Yes.

2999. Do you consider that striking against non-unionists should be legal or illegal?—I should like to see it made illegal, if possible. In this case, if I might be allowed to transgress a little, what is mentioned in this paragraph I quote here took place at a Conference that lasted three days in the settlement of a long dispute that had lasted for ten months in our trade. We were discussing the question as to whether the union should work harmoniously with non-union men when the Secretary of the Scottish Workmen's Federation replied in the manner I have quoted. I think myself that this perhaps is the one weak spot of trade disputes, the want of protection to men who, from conscientious motives in many cases, prefer to wait at work.

3000. (Sir William Lewis.) And prefer not to be in the union?—Yes, who prefer not to be in the Union and to remain at work.

3001. (Chairman.) Granted for the sake of argument that this is very unreasonable and very unjust on the part of the unionists, do you think that being so, that unionists should be prohibited by law from striking against non-unionists?—Well, I would not be prepared just to go that length, but I am prepared to say that the law ought to be strengthened and not weakened to protect these men who prefer to work, and have no sympathy with the Union on the particular question that involves the strike.

3002. (Sir William Lewis.) When you say men who prefer to work, do you mean non-unionists?—Yes, non-unionists or unionists who will not join the strikers and break away.

3003. (Chairman.) But what you have said just now only means that you do not wish to give more powers to Trade Unions than they now possess; in other words, you do not wish to see the proposal as to picketing for peaceful persuasion legalised? That is all you mean to say?—That is all I mean to say.

3004. Do you go further and do you wish to suggest that the striking of unionists against non-unionists should be made illegal?—I should like to see it made impossible for any Union man to approach a non-unionist, because of his action in remaining at work; I think it ought to be punishable.

3005. (Mr. Cohen.) Do you really mean that if a union man meets a non-unionist man, say, at the club or in the street, and if he says: "I think you are very wrong in working for a certain employer," that ought to be considered an offence?—Under the circumstances that the Union have exercised their authority, and withdrawn all the Union men from the shop, I think, as a set off, that man should be freed from all forms of intimidation, and approaching a man to peacefully persuade him is, in my mind, a form of intimidation.

3006. And you think peacefully persuading ought to be a criminal offence?—Under the circumstances.

3007. What circumstances?—The circumstances I have named, that the Union have exercised their full rights to declare a strike in a particular shop and withdrawn all their men and withdrawn all non-union men in sympathy with them; they have taken full advantage of the provisions of the law, and I say they have no right to approach any man, or ought to have no right to approach any man, who chooses to remain at work or to go into the shop and work after they have lifted.

3008. (Chairman.) Assuming there is a strike of unionists against non-unionists, you do not propose to make that unlawful?—No.

3009. You do propose that it shall remain unlawful for those unionists to use any violence or threats of violence to the non-unionists?—Most decidedly.

3010. You are also of opinion that picketing the house or place, watching or besetting, even although it is for the mere purpose of peacefully persuading, should remain prohibited by law?—I am.

Mr. Andrew Thomson, jun.
Dec. 1904.

Mr. Andrew Thomson, jun.
7 Dec. 1904. 3011. Do you go further than that, and would you make it penal or actionable for any workman being a unionist to approach at any time a non-unionist who is at work, to dissuade him from going on working?—Yes, I would prohibit him.

3012. (*Mr. Cohen.*) Might I just direct your attention to a passage in the Report of the Royal Commission on Labour, 1894, p. 107: "In any case" (they say), "there must remain a great deal of moral compulsion or pressure which may in some cases be justifiable and in others not, but which positive law cannot usefully attempt control. The law can and should protect the persons and property of those who dissent from the majority of their neighbours or fellow-workers; it cannot compel the majority to have a good opinion of them." You agree with that?—Yes, I agree with that in substance.

3013. (*Sir William Lewis.*) Have you any suggestion to make to us as to a means of protecting the non-unionists against persecution by the unionists?—That is a point I have given some consideration to, but I have nothing to suggest, unfortunately, further than the strengthening of the laws against picketing and approaching workmen.

3014. I observe what appears to me some inconsistency in your *présis*. You say (*Vide p. 190 ante, col. 1*), "If the Bills to legalise peaceful picketing or any of the sections therein contained, became law, they would injuriously affect witness's business during a dispute or strike of union workmen." And then you say (*Vide p. 190 ante, col. 2*): "Witness would not object to the provisions in the Bill granting the unions power for the purpose of peacefully obtaining or communicating information, or for the purpose of peacefully persuading any person to work or abstain from working;" but I gathered from your evidence that you do not think there is any such thing as peaceful persuading, and that it would be threatening and not peaceful persuading?—I think I can explain to you my meaning on that portion. I intended, and in my original draft to Mr. Russell the secretary of the

Scottish Furniture Manufacturers' Association, I had that paragraph and the following one in one, and they have got disconnected. If you read the two paragraphs together, you will see what I mean.

3015. Perhaps you will read the whole passage which represents your meaning?—I "would not object to the provisions in the Bill granting the unions power for the purpose of peacefully obtaining or communicating information, or for the purpose of peacefully persuading any person to work or abstain from working"—then I had a "but" in there—"but witness would most decidedly object to place such powers in the hands of any Union or Association without some restrictions being devised." That is my purpose. I had an idea in my head that perhaps before I was called I might have something to suggest in the way of giving the men power to approach a non-union man with a view to getting or giving information through some neutral party or board.

3016. (*Mr. Cohen.*) He can do that now, only the question is whether he should be allowed to beset premises; there is nothing to prevent a workman going to another workman, and advising him not to remain in the employment of his present employer, and we are only concerned now with what is called picketing, that is the distinct act of besetting and watching premises, and what I think we want to know from you is—do you think besetting and watching premises for the purpose of coercing any other person ought to be a criminal offence in all cases?—Yes, I do.

3017. (*Chairman.*) You have nothing more you wish to say?—No.

3017a. Have you printed Rules for your Association?—Yes.

3017b. Will you hand them in?—With pleasure. (*The Rules were handed in and extracts therefrom are printed on pp. 85 and 86 of the Appendices.*)

Mr. JAMES DUKE called and examined.

Mr. James Duke.
7 Dec. 1904. 3018. (*Chairman.*) You did once belong to a trade union?—I would still but for illegal and unlawful exclusion. I appealed against that and the society decided unanimously in my favour for re-instatement, but that meant the resignation of the general secretary and management, and that started the warfare. I was prevented from working for three years through it, but I managed through public exposure to compel them to allow me to go to work again, and I have been working since 1891 under protest. Every contribution card I get is marked "under protest."

3019. What union did you belong to?—The Boiler-makers and Iron Shipbuilders.

3020. You have delivered to our Secretary a paper describing the evidence which you are prepared to give to this Commission?—Yes.

3021. You have no objection, I suppose, to this paper being made part of the proceedings of this Commission?—Certainly not, and I will corroborate it with my manuscripts here, but they are very voluminous extending over a number of years. My statement is as follows:—

I beg to submit the only conclusions I am able to arrive at in respect of the proposed amendments of the law of conspiracy and the Acts of 1871 and 1876, presuming, of course, that your enquiries extend to the latter, and write under the impression that any truckling as proposed with the former, without a drastic amendment or total repeal of the latter, will only end as all concessions have already ended in further confusion. Hence my conclusions are that nothing should be left open or possible for the constitution of Trade Unions, their rules, or the actions of their members in whatever capacity, singly or collectively, to override either the common, civil, or criminal laws of the country.

Under the existing law they can and do override these laws with most intolerant impunity, resulting in grievous injustice and oppression unknown to the general public, who little dream that the victims of this have practically no "legal remedy;" much less does it know that exclusion means following about, until brought to heel, by being prevented from working, nor that this monstrous injustice does not cease with the parties in dispute, but is visited

upon the wives, children, or parents or dependants, as the case may be. If it were but for these alone, this shameful legal disability should be removed.

A branch objected to their secretary making out a cheque on the treasurer for £12, funeral benefit for a widow with five children, on the ground that her deceased husband had been out of benefit to the extent of 4d., the cost of an annual report. She, of course, had no remedy, and it was only after I personally threatened to take steps to insist upon each member being supplied with an annual report, i.e. a balance sheet, free of charge, that the money was paid. I have also the report of a case where a member nominated a person to receive his funeral benefit. This case went from the county to the higher courts, and in the end the society won over "No jurisdiction." Moreover all or nearly all who suffer from or under this disability suffer also from want of means, so that even were legal remedy open to them they would only be able to secure as much justice as they were able to buy. There cannot be one of the leading lights but who is aware of this state of things, yet, withal, some of them may be found administering justice from the Bench; while others are battenning and fattening on the strength of this disability, stumping the country as if the rights of others were secondary to their own, declaiming from the house-tops that the heavens may fall before they will surrender one inch of their birth-right, the rights their father fought for, the charter of their freedom, privileges, and principles, the Acts of 1871-76, a lamentable heritage when compared with the dictum, "There is no wrong without a remedy!"

Were Trade Unions to be separated from friendly societies, then at once the former should be compelled to register as companies or associations and be allowed to fully enjoy the same, but they should have no greater rights than these combinations or corporations.

Should a division take place, then the remaining part should be compelled to incorporate under the Friendly Societies' Acts without any equivocation whatever about what our fathers bled for, our birthright and privileges, etc., etc.

Taking them as they are, the deletion of two letters and the substitution of three in their place, in section 4

of the Act of 1871, would nearly cover all that, as a matter of justice, is demanded, so far as their purposes as friendly societies are concerned.

Here I may be pardoned for taking the liberty of inserting a quotation or two taken from the Guide Book of the Friendly Societies' Registry Office, together with a few insertions of my own, as being my best way of expressing my views:—

"Nothing in the Act (1871) shall disable any court (except the Statute of Limitations) to hear and determine any dispute between a Trade Union and its members, or disputes between members, trustees or bodies of management, or disputes between a trade union, and the wives, widows, children, nominees, personal representatives, or persons who may have ceased to be members of a Trade Union, in respect of any claim, benefit, enforcement of any rule, agreement," etc.

"Power to refer all cases in dispute to county court or court of summary jurisdiction."

The following letter from the Chief Registrar will corroborate the utter futility of appeal to him, in consideration of the fact that committees of management can defy any application for an agreement to refer the matter in dispute to him. Why should they, when self-interest is at stake, and they are able to starve their opponents into submission? :

REGISTRY OF FRIENDLY SOCIETIES, CENTRAL OFFICE,
28, Abingdon Street, S.W., London.
19th September, 1903.

SIR,—In answer to yours of yesterday's date I beg leave to state that it is not our duty nor is it possible for us to advise societies—still less members of societies—as to the proper conducting of their business, the carrying out or legal interpretation of their Rules, the duties of their officers, or the individual rights and liabilities of members, nor would it be proper for us to express opinions on such matters on the representation of either a society or a member where the dispute is one that should be referred to the arbitrators of the society, or may, by the consent of both parties, be referred to the chief registrar and which, therefore, it would not be right to prejudge. I am, Sir,

Your obedient Servant,
E. W. BRABROOK.

MR. JAMES DUKE,
20, Alice Street,
Docks, Cardiff.

Were he provided with the power to compel both parties to refer the matter to him or his nominee, that indeed would be a step in the right direction, and might have the question of less costs than litigation to recommend it.

Among other things that trade unions do not recognise is "surrender value." Upon that account and the impetuosity of the majority of disputants, I would suggest that any court should be able to direct a proportionate share of this value for the conduct of their case.

As for arbitration, I regret to say that from bitter experience, I have found that it is a complete farce when one of the parties to it is weak and the other strong.

There is another unjust and cowardly feature in connection with the publication of their monthly reports or official organs. They are often used when personal ends are opposed and personal spite has to be ventilated, the good character of a person for a lifetime may be blasted beyond recognition, while the impunity of the transaction is aggravated by the printer's imprint not being attached to the publication in which the libels appear, and to cap the effrontery and disrespect their authors have for the law, the organs are headed, "For the use of our members only," and this obtains to-day in an institution which has set apart a sum equal to paying £325 per year to two candidates, if successful, to represent its interest in the House of Commons. On the other hand, should the libellers be libelled, they set the criminal law in motion to make quite sure of destroying any chance of justification being successfully set up.

Apart from internal disputes, there are many instances where complete outsiders, commercial firms for instance, are discredited; therefore, I think that upon the whole these organs ought to be brought within the operation of the Newspaper and Libel Registration Acts, and irrespective of whether they are published at intervals of a day or

a year. Beyond the subterfuge evinced by these headings no measures are taken to prevent them becoming public property. I myself have been refused work and hounded, that is, molested and followed about all over the country upon account of what it is to-day attempted to term, "Only the peaceful moral persuasion" contained in them.

Any steps taken to curtail the tyrannical power of trade unions somewhat on the lines suggested, is sure to meet with the most strenuous opposition, not from the bulk of Trade Unionists themselves, but from that class of them, unfortunately growing too large, who, under the surface, have no interest to serve save their own, and who, as soon as it is perceived that if they were to submit to any surveillance in this direction—the enfranchisement of the Courts—that, in course of time, and to a large extent their conduct and actions in trade matters, would come under similar observation.

Hence their occupations being gone, so would we be nearer to that time pictured by one of the most prominent among them—in public—"a time when brains shall rule and only true worth be recognised," a leading light who, in representative capacity or personal conduct, recognises "no law save his own will."

On the other hand, I do not think that the well disposed body of Trade Unionists would be against such a measure, at any rate, now that secrecy is not essential either to the existence or welfare of trade unionism that logically, at least, they could not oppose being placed on the same footing as their fellow subjects; for instance, the members of Friendly Societies, more so as this was the recommendation of the Trade Union Commissioners sitting in 1866-7 and I think that the opposition to it then could not be maintained under the altogether altered conditions and circumstances.

Conspiracy and Larceny.

Nearly the whole of my career has been passed in Trade Union circles, in which it has been and still is all but impossible to get, much less to retain your employment, unless belonging to the Union relating to your trade.

For the past fourteen years I have had to thank the fear of public exposure, not the law, for standing in the unique position of being tolerated to work at my lawful occupation without being a member. Although during all this time I have been under the ban, that just as soon as I refused or ceased to pay the blackmail imposed, and submitted to under protest, and on condition that the molestation to which I had been subject during the three previous years would cease, just as sure would this molestation reappear, were the projected Bills to become law, in the garb of Mr. "Peaceful Persuasion" attending, as in the past, at any time or place, to receive or impart, etc., or to peacefully persuade such as myself and others to do, etc., etc.

Therefore, relying on my own bitter experience, together with the equally bitter and cruel experiences of many, many others, I must state most emphatically that were the Bills to become law, they would—by reason merely that they neither clearly nor sufficiently define what peaceful persuasion in reality legally means—further legalise, or at any rate aggravate the notorious state of the law as it is.

I most respectfully ask the Commission to imagine or suppose, in cases of members of Trade Unions who have not violated any rule, trade regulation or custom, who have faithfully fulfilled every obligation and contract, if contracts of membership may be so called, then after from twenty to forty years' membership, expelled without reference to rules, hearing, or trial of any description; next, followed about all over the country by some "moral persuasionist," who, if not in person, is dressed in the garb of privileged letters or writings, or notices containing menaces, which finally compel their victims as a result of this and sheer weight of wealth, stealth, and numbers, to submit as a condition of employment to terms which I cannot here illustrate, on account of their number and each requiring an exhaustive explanation.

There are scores to-day within trade union circles who, with from twenty to forty years' membership, subjects of this victimisation, are entitled to, under rules, from 6s. to 11s. per week as old age pensions. Personally, I calculate that my interest in this benefit is not less than £260.

Suffered to exist by a crisis made law, further protected and privileged by special laws made since, yet we find those

Mr. James
Duke.
7 Dec. 1904.

Mr. James Duke. who are now clamouring loudest for the relaxation of the law are the first to break the law and injure, by the protection of the law, those who, but for this protection, and moving or acting in other circles, would have to meet under the law of larceny, charges of having extorted and received, and put to their own use, money under false pretences. No judge ever spoke with greater truth than Mr. Justice Wills, when he said, "There had been perpetual shuffling out of all responsibility."

7 Dec. 1904.

Official documentary evidence will prove up to the hilt the faithfulness of this photograph of the internal system of management of one of the most powerful trade unions of the day, which at the time he spoke possessed nearly half a million of money with power to ruin any trading concern possessed of ten times this amount.

The Bills, no matter the language in which they are clothed, are nothing more or less than a prerogative to make a contract or break it, to be added to the power they already possess to do this within their own pale, or outside of it; to exercise similar surreptitious means fostered by custom and previous immunity, to break or cause a contract to be broken between others and to escape the responsibility with greater impunity.

They may harry and destroy a home or they may harass and destroy a trade, but their Star Chambers may not come under lawful and peaceful observation. Moreover, some of these Star Chambers, though sub-divided and existing all over the country are, in not a few instances, presided over and absolutely controlled by modernised broad-heads, whom to differ with is to incur "unrelentless persecution" and "social extermination," and irrespective of trade or social position.

3022. Will you state the first point you wish to make to this Commission. What is the topic?—The first point I wish to make to this Commission is to put in evidence to prove that they are not entitled to any alteration in the law of conspiracy until there is a drastic amendment or a total repeal of the law on Trade Unions. I refer to a drastic amendment of the Act of 1871, or its total repeal. It is under the cloak or garb of this Act that they are able to commit these offences against the law of conspiracy with impunity. I have evidence here enough to block the Bill.

3023. (*Mr. Cohen.*) Do you wish any of the provisions of the Acts of 1871 and 1875 to be repealed?—I want to put in evidence to show the wrongs done under the Act of 1871; that that Act practically cloaks many offences.

3024. (*Chairman.*) The Criminal Law Act of 1871 is dead; which Act do you mean? Is it the Trade Union Act you mean?—Yes, it is a terrible weapon of social persecution in their hands. On the 29th of this last October, I would have been entitled to nine shillings a week for the remainder of my life but for the operation of that Act, and I cannot go into any court for redress.

3025. (*Sir William Lewis.*) From what source would you have been entitled to the nine shillings?—From the Superannuation Fund of the Trade Union, of which I would have been a member for over thirty-four years but for illegal and unlawful exclusion.

3026. (*Mr. Cohen.*) The workmen know that that is the law; why do they join the Trade Unions?—If you do not join you will not be allowed to work.

3027. Why?—Oh, the proof is there!

3028. If the great majority of experienced workmen were of your opinion that Trade Unions have despotic power which they exercise injuriously to their members, do you not think the great majority of experienced workmen would form some union of their own in opposition to the Trade Unions?—Ah! I will not deal with that; but point out that through the dispute which arose (which was not a trade dispute) that I was illegally expelled, against which, like thousands more, I have no remedy.

3029. (*Chairman.*) The practical point I understand you to make is this, that you consider yourself, under the rules of the Boilermakers' Union, entitled to a superannuation allowance of 9s. a week?—Yes.

3030. The society refuses to pay you that and you cannot compel them to pay you because of that clause in the Trade Union Act to which you have referred us; and we understand you here now to suggest that that

clause should be repealed?—I have appealed no less than seventeen times against their unlawful conduct.

3031. You say that your rights are denied to you and that you have no remedy because of that clause in the Act?—None whatever, not at least in the Sunderland or Cardiff County Courts, or any other court where I have tried to find redress.

3032. The Act of Parliament stops the way; do you wish that Act of Parliament or that clause repealed?—Yes, repealed or drastically amended; it ought to read, "Nothing in this Act shall disenable any court," from the lowest up.

3033. Supposing that Act had never passed, would you have been able to recover your allowance of nine shillings a week in any court in the kingdom?—I do not know about that.

3034. I think I can tell you that you would not, but still the question is open of course whether the clause of the 1871 Act which is now law should remain law. You consider it ought not to remain the law?—It is not the law of conspiracy of 1875 that requires amending, but the Act of 1871.

3035. (*Mr. Cohen.*) You say that great injustice has been done to you because you are really entitled to a superannuation allowance; you are deprived of it by the executive of the Trade Union and you have no legal remedy?—No legal remedy—that is right.

3036. You have no legal remedy on account of the enactment contained in the 4th section of the Act of 1871?—That is so.

3037. You therefore say that in order to prevent the like injustice that enactment ought to be altered or modified; that is your view?—That is right.

3038. (*Chairman.*) You have had injustice done to you and you have had no redress?—That is so.

3039. Other persons may have injustice done to them and yet no redress?—Yes, all members of Trade Unions are on the same footing as myself before the law.

3040. And, in fact, any amount of injustice may be done by executives of Trade Unions and nobody can claim any redress?—That is so.

3041. And you wish that law altered?—Yes.

3042. (*Mr. Cohen.*) What must be done before a member of a Trade Union can be deprived, say, of his superannuation allowance? What has to be done first? Who directs that?—Should a dispute arise between a member and a district committee or a committee of management either through personal feeling or perhaps some illegal act the member has been guilty of, or whether or not any member can bring a charge against another and take him before his branch, after having received six days' notice, he has the right to appeal against the decision of his branch to his district committee, from his district committee the member has the right to appeal to the executive council, and from the executive council he has the right to appeal to the whole society. For some thirty years the General Secretary was the Trade Union I refer to, and General Secretary combined. Any branch or member challenging the policy of the executive so constituted did so at the peril of being suspended or excluded, which practically closed all channels of appeal. It is true that the aggrieved may appeal to the vote of the whole society. In my case the society voted unanimously in favour of my immediate re-instatement, but by the abuse of power and office the vote was nullified, and it is against this I have been fighting single-handed for the past seventeen years. These things would not have become or remained possible but for the operation of the Act of 1871.

3043. It is a domestic forum with many courts of appeal?—Mr. Knight gave evidence opposite to this some twelve years ago before the Royal Commission on Labour which sat then, and I say at once that he gave deliberately false evidence.

3044. (*Chairman.*) We do not wish to go into the rights and wrongs of this dispute or of any dispute, but you say, and we do not dispute it, what is the important point, namely, that under the law as it stands any amount of wrong and injustice can be done by the executive body of a Trade Union towards members and those members can

get no redress?—No legal remedy; you cannot get the rules enforced, and you cannot get the agreement or contract of membership enforced by any Court of Justice.

3045. (*Sir William Lewis.*) What do you suggest as a remedy?—"Nothing in this Act shall disenable any court;" that would enfranchise the courts again, so that any member who has a grievance can go to them and get justice. With respect to the law of conspiracy, it is only under the cloak of the Act of 1871 that they are able to break contracts and punish members inclined to scrutinise their policy or conduct.

3046. (*Chairman.*) Have you anything else to say on any other point?—I thought perhaps you wanted some evidence as to what peaceful persuasion meant.

3047. I will ask you one question about peacefully persuading: do you know the law on the subject?—Very fairly; I have been four months in prison through it in this same case, and I have a right to know a little about it. I have been fighting this matter seventeen years now.

3048. Do you think that workmen should be at liberty to watch and beset the house of another workman?—Certainly not, nor to go near the place. For six solid weeks I was followed about by an agent, who first requested my discharge or withdrawal of the members; next my foreman, also a member, was warned that he would be fined £1 for giving me employment and for not paying me off as requested; next my fellow-workmen were approached; result—"This is to certify that the Bearer, Jas. Duke, has been discharged owing to the action of the members of the Boilermakers' Society. John Bundred, Foreman."

3049. Then you know what it is to have your house watched and beset?—Not my house but at my work; I have been hounded all over the country. "We hear J.

Duke is in Scotland causing mischief"—I was then trying to enlighten the members as to the harsh state of the law, and that the council were overriding their power hunting me from shop to shop. Peaceful persuasion! "We hear J. Duke is in Scotland." What does that mean? That was inciting the men in Scotland not to allow me to work.

3050. (*Sir William Lewis.*) You do not believe in peaceful persuasion?—Certainly not; I have had a little bit of moral persuasion here, and molestation there, and I have been before the Newcastle magistrates and the Sunderland magistrates and yet have got no justice.

3051. (*Mr. Cohen.*) We wanted to know, and still want to know, your opinion on the new Bills which have been proposed. You have read them?—Yes.

3052. Is this your opinion of the Bills: "The Bills, no matter the language in which they are clothed, are nothing more nor less than a prerogative to make a contract or break it." That is your opinion?—That is right; I will prove that.

3053. "To be added to the power they already possess to do this within their own pale, or outside of it. To exercise similar surreptitious means fostered by custom and previous immunity, to break or cause a contract to be broken between others and to escape the responsibility with greater impunity?"—That is it.

3054. Now, may I take it from you that you object to these Bills because they are Bills of the kind you have here described?—Yes.

3055. That is the reason?—From personal experience I know it.

3056. And because you think these Bills have that object, and will have the effect you have here described?—Yes.

Mr. JAMES WRIGHT called and examined.

3057. (*Chairman.*) You are a builder and contractor, I understand, in Nottingham?—I am.

3058. And you are the Official Representative of the Midland centre of the National Federation of Building Trades Employers of Great Britain and Ireland?—Yes.

3059. You have submitted a *précis* of the evidence you are prepared to give?—Yes.

3060. You consent to this paper being made part of our proceedings to-day?—Yes, with one exception, that those paragraphs referring to the Plumbers' Union and University College have been supplied to me on what, I believe, to be the best authority, but I have no personal knowledge of them.

The Statement is as follows:

I have been in business in Nottingham as a builder and contractor twenty-three years, and have been President of the Nottingham Master Builders' Association, and of the Midland centre of the National Federation of Building Trades Employers, and am a member of the councils of each of these bodies.

While acting in the above capacities, I have had ample opportunities of observing the methods adopted by Trades Unions during many and various trades disputes, and my experience convinces me that to legalise picketing—to exempt Trades Unionists from punishment for what would be in non-unionists unlawful acts—and to protect Trades Unionists' funds from attack, when their actions result in damage, either to business or to non-unionists, would seriously interfere with and injure business generally, and would be a gross injustice to that much larger body of workmen who are outside the ranks of Trade Unionists. In confirmation of my expressed conviction I submit the following examples of Trades Union tactics as practised in Nottingham during recent years.

(1) In 1897 the Plasterers' Union blacked a master plasterer's shop because he had bound an apprentice who was alleged to be three or four months older than the union rules allowed. All the said master plasterer's works were stopped, and as no non-unionist is allowed by the unions to work in the building trade in Nottingham, he was totally unable to carry on his business. Negotiations resulted in his being fined £25, which was paid to the union before the men were allowed to work for him again.

(2) In 1898, A. R. Calvert, Esq., F.S.I., was engaged as architect in the erection of a new constitutional club in Nottingham. A dispute arose on this work between the plumbers, and the hot water fitters as to whose work it was to fix certain iron water pipes. The trades combined in favour of the plumbers—who went on strike—and the building stood partly covered in for some time. As the union tilers or slaters would not cover in the building for the builder, Mr. Calvert, acting under pressure from his clients, took the work out of the builders hands, and got it done by men from outside Nottingham. The trades council immediately ordered all trades off this work, and also all Mr. Calvert's other works, because, as they said, he had brought non-union labour into the town. Finally, a pledge not so to offend again and a penalty of £15 were exacted from Mr. Calvert before this and other works being carried out by him were allowed to proceed. I hold a letter from Mr. Calvert in which the above facts are more fully explained. In this letter, he says, "The delay caused me serious trouble with my clients and injured my business for some time."

(3) A similar case to the above arose during the building of the Empire Theatre in Nottingham, in 1897, the facts of which are as follows:—

Plumbers' Strike at the Nottingham Empire Theatre in 1897.

Messrs. Thomas Danks & Company, a firm of iron-mongers and engineers, gasfitters, and general whitesmiths, tendered for and obtained the contract for gasfittings. It was just about this time that the Plumbers' Trade Unions had commenced to maintain that gasfitting was really plumbers' work, and that the gasfitters and whitesmiths must give it up.

No sooner had Messrs. Danks' men started work on the job than the Plumbers' Operatives Union sent a deputation to the chief contractor informing him that unless Messrs. Danks were deprived of the work and the job handed over to the plumbers all Trades Union men, of whatever trade, would be withdrawn.

The contractor and the proprietor, who felt that this was a quibble between two trades (*viz.*, the plumbers and the gasfitters), gave the plumbers very little encouragement.

They soon, however, struck the job, bringing out with them the joiners, bricklayers, and all the trades, so that the job was at a complete standstill.

Mr. James Duke.

7 Dec. 1904.

Mr. James Wright.

7 Dec. 1904.

Mr. James Wright. The strength of the Plumbers' Trade Union was such that they then dictated terms to the proprietors, as follows :—

7 Dec. 1904.

- (1) That the gas-piping should be taken out of the gasfitters' hands and handed over to the plumbers.
- (2) That the proprietors should pay an indemnity or compensation of £50 to the unions concerned.

As there was no alternative, except a long strike, these terms had to be agreed to.

(4) In 1899 a dispute arose between bricklayers and plasterers about the laying of cement floors (granolithic), each trade claiming the sole right to this work. The builders, seeing that the work can be done by either trades, declined to surrender their right to place the work with either bricklayers or plasterers, as circumstances might suggest. The result was a strike of the plasterers for about twelve months, during which the building trade in Nottingham was practically paralysed, causing great pecuniary loss both to employers and workmen. Strikes have also been declared (1) against the dismissal of a colleague, (2) refusing to work with a non-unionist, (3) refusal to fix work prepared by non-union labour, (4) against the employment of non-union men, (5) for limitation of apprentices, (6) against employers' refusal to compel men to pay their arrears to the union, (7) against the employment of a man who refuses to pay fines to the union.

I should also desire to call attention to the action of the Plumbers' Union in refusing to allow anyone to attend the classes in theoretical and practical plumbing at the Nottingham University College unless they are actually apprenticed plumbers. The facts of the case are as follows :—

The Plumbers' Union and the Nottingham University College.

In the autumn of the year 1893, Mr. E. Greenall, an ironmonger's apprentice, joined the classes in theoretical and practical plumbing at the Nottingham University College.

There were only two students in these classes who were not plumbers or plumber's apprentices.

After two or three attendances the plumbers had ascertained that this particular student was not actively engaged in the plumbing trade, and they immediately commenced to make things as unpleasant as possible for him.

Their first move was a deputation to the teachers objecting to the presence of any "outsiders" at plumbing classes, but this had no effect. They thereupon struck work at the class and the stranger had the room, class, and teacher to himself, while the offended plumbers (about twenty) sat in a group outside the closed door making derisive remarks to him as he passed in and out.

Finding that even this did not attain their object, they approached the teachers again and made an arrangement by which all the plumbers were permitted to attend a so-called "advanced" class in addition to the elementary where the trouble arose. They first went to the elementary class along with the outsider, and came away with him, but when he had been seen safely off the premises they returned and had their quota of instructions at this "advanced" class.

When this was discovered objections were made to the professor in this department, and the plumbers' double class arrangement was cancelled, and, the plumbers being foiled for the time, apparently letting the matter drop.

At the beginning of the next session, however, the Nottingham University College had made a rule that no one should be allowed to attend these classes unless they were actually apprenticed to a plumber.

They refuse to admit an architect or clerk of works to these classes; that is to say, the man who has to pass and approve their work is not allowed to obtain the knowledge required to carry out his duty efficiently, and these classes are paid for out of the public rates.

The Royal Commissioners will note that all the above-mentioned disputes occurred before the "Taff Vale" decision, when pickets could so watch and beset premises where disputes existed as to make it practically impossible to carry on business. If picketing did not succeed in attaining the end in view, a combination, or conspiracy of all trades interested, would be brought about, resulting not only in suspension of, and injury to, business, with heavy pecuniary loss to the firms affected, but also in the extortion of blackmail, as in the cases already mentioned. Since the Taff Vale decision trade disputes

have appreciably diminished, Trades Unionists recognising their liabilities to punishment if they act unlawfully. On what ground they should be exempt from the consequences of their own acts, like other men, I am unable to understand.

Their unions are well organised, have large funds, are represented in Parliament, and are quite capable of looking after their own interests without the special intervention of Parliament. My experience suggests that large bodies, with the advantages which Trades Unions possess over unorganised labour, require restrictive rather than permissive legislation, for they have a much more lively sense of their rights than of their duties.

So-called labour legislation is a misnomer. It should be called Trades Union Legislation; for it should be remembered that there are three times as many non-union workmen in this country as there are Trades Unionists; and, whatever legislative advantages are granted to Trades Unionists, they will confer no benefits on the much greater and much worse paid body of non-unionist workmen, but, on the contrary, will be used to oppress them, and frequently to deprive them of their natural rights, by preventing them from earning their daily bread.

3061. The first point you mention is the proposal which is made in these various Bills (*Vide Appendices, pp. 7 and 8*) to legalise picketing for the purpose of peaceful persuasion; what is your view upon that point?—I do not think there can be peaceful persuasion. The fact of men picketing, at any rate where Trade Unionism prevails at all, is of itself sufficiently strong to deter men from seeking work.

3062. You know the law as it exists about picketing?—I think so.

3063. From your experience, have you been aware of the evils of picketing, such as intimidation arising from picketing?—Yes, we have had cases at Nottingham; I have no particular cases, but they have occurred.

3064. Do you think that picketing, so far as it is allowed now, has been a source of abuse and intimidation?—So far as it is allowed now, since the Taff Vale decision.

3065. (*Sir William Lewis.*) Do you suggest that the decision in the Taff Vale case has deterred unionists with respect to picketing?—Very much.

3066. (*Chairman.*) You think that the knowledge that the Trade Union funds would be responsible in case any unlawful act is committed at the instance of the Union has tended to restrain workmen from unlawful picketing?—Undoubtedly.

3067. (*Mr. Cohen.*) You are of opinion that picketing, that is watching and besetting premises, ought in all cases and under all circumstances to be abolished?—Quite so: that is my opinion.

3068. That is the result of your experience?—Yes.

3069. You think that picketing in all cases tends to illegal intimidation?—I do.

3070. And as far as your experience goes picketing is never used merely for the purpose of peaceful persuasion?—No.

3071. It is not necessary for that purpose in your opinion?—Not at all.

3072. Nor is it in fact used for that purpose?—Not at all.

3073. And therefore you say it ought to be abolished absolutely, without any exception being made as to peaceful persuasion?—I do; that is my view.

3074. (*Chairman.*) In the middle of page 2 of your *précis* (*Vide Col. 1 ante*) you make this statement: "Strikes have also been declared (1) against the dismissal of a colleague, (2) refusing to work with a non-unionist, (3) refusal to fix work prepared by non-union labour, (4) against the employment of non-union men, (5) for limitation of apprentices, (6) against employers refusing to compel men to pay their arrears to the union, (7) against the employment of a man who refuses to pay fines to the union": first of all, to consider these together, is it your opinion that a workman has the right to refuse to work?—Oh, yes.

3075. And on any conditions ?—So long as he does not interfere with anybody else.

3076. On any conditions ?—Yes, I think so.

3077. For instance as to the amount of wages ?—Oh, yes.

3078. He may ask £1,000 a week if he likes ?—Yes.

3079. And he may refuse to work on account of the state of the buildings ?—Yes.

3080. Could he make any stipulation as to his companions in the workshop ?—He can decline to work, I presume.

3081. And may a number of workmen in the same way decline to work on any conditions they like ?—So long as they do not previously arrange to try to prevent me from carrying on my business, I suppose they may.

3082. Is not every strike made for the very purpose of preventing you from carrying on your business on the old terms ?—I suppose it is in a sense, but it ought not to be ; if men like to strike I ought to be allowed to get other men if I can.

3083. We will take the first half of that question ; you think they are entitled to strike for any purpose which they think fit ?—Yes, if I may qualify that by saying so long as they do not interfere with other people.

3084. But you understand that if a man or twenty men refuse to work with a particular man, their action does operate on that man ?—Yes.

3085. They interfere with that man ?—Yes.

3086. (*Sir William Lewis.*) They lead to that man losing his employment ?—Yes.

3087. (*Chairman.*) If they ask for 50s. a week when they are only entitled to 20s. and strike, they are interfering with you in carrying on your work ?—Yes.

3088. Do you want to make that punishable or actionable by law ?—I have not looked at the question in that light. I do not quite see, so long as they strike peacefully, that we should interfere with them.

3089. (*Sir William Lewis.*) If they have given proper notice ?—Yes, if they strike and leave peacefully.

3090. (*Chairman.*) And do you think whilst they are at liberty to do that the union executive are at liberty to advise them to do that ?—Yes, I suppose so.

3091. That being so, what is the objection you have against the strikes for these various purposes which you have enumerated ? Take striking against the dismissal of a colleague.

3092. (*Mr. Cohen.*) If ten workmen go to an employer and say, "You have a certain workman in your employ ; we will not work with him, and if you continue him in your employ we shall leave you," do you really think that a wrong act which ought to be punished, or in respect of which an action might be brought ?—If it interferes with him, yes.

3093. What do you mean by "if it interferes" ?—Before I could carry on my business perhaps they would compel me to dismiss him.

3094. What do you mean by "compel" ? They simply say, "If you do not do that we shall leave you" ; is that, in your opinion, a wrong act which ought to be punished or in respect of which an action ought to be maintainable ? All I want is your opinion. Ten workmen go to an employer and say, "You are employing a man with whom we do not wish to work, and we tell you that if you continue him in your employ we shall think it right to leave you at the termination of our contracts." Will you kindly tell me whether in your opinion such conduct ought to be punishable or ought to give rise to an action for damages ?—If damages follow, but the question seems to depend so much upon other considerations. If ten workmen in my shop left me and did not interfere with anybody else, and there were no future connecting links between them, I think I should take no further notice and get some more, but the result of those men going would be that I could get no others.

3095. Because they would intimidate others ?—Because their union connection would prevent others coming.

3096. (*Sir William Lewis.*) They would make it known why they were leaving ?—Yes. *Mr. James Wright.*

3097. (*Chairman.*) Do you not see that every strike which ever has existed compels somebody ? It must compel the employer, and that is the sole purpose of it ; you agree to that ?—Yes. *Dec. 1904.*

3098. And if there is any body else concerned, like a defaulting trade unionist or a non-unionist, it compels them also ; you see that, do you not ?—Yes.

3099. The non-unionist is compelled to join the Union, because he cannot find other persons to work with him ; the master in like manner is compelled to give more pay, because if he does not he cannot get his workmen. What we want to ask you is this : that being the compulsion, is that compulsion to be lawful or not lawful ?—As I said before, in answer to another Commissioner, it seems to be an act in itself which ought not to be punishable, but when it is connected with the union which has so many ramifications that they can prevent you carrying on your business, it is a very different matter, because the mere fact of ten men leaving my shop will not prevent my business being carried on if they do not interfere with anybody outside.

3100. Are we to infer from that, that if a union is small, weak and insignificant, it may be tolerated, but when it is powerful, and when it really represents the majority of the trade, it should then be made unlawful ?—If it interferes with and damages me.

3101. It must do so ; the action of a powerful union must interfere, and it is intended to interfere with you ?—It must prevent me from carrying on my business.

3102. Yes, except on the terms which they suggest.

3103. (*Mr. Cohen.*) I think I see at last your meaning, because I want to get at it, and we all do. A Trade Union has great power over its members, has it not ?—Yes.

3104. And you think that if a Trade Union exercises that power in inducing and causing its members to strike, then if that strike injures the employer, the Trade Union ought to be liable ; is that your opinion ? Supposing that a trade union tells its members "Now you must strike," knowing that the strike will injure the employer, do you think that because the strike would injure the employer the Trade Union ought to be liable ? Is that your opinion ?—I am afraid I cannot answer the question directly ; I am sorry, but it looks to me to depend upon so many other considerations. A Trade Union, it seems to me, ought to be allowed to do as it likes, so long as it interferes with nobody else. That is to say, it can take this action you are describing, and if it left me and my one man to do my business, and I could get other men without its interference, it should be allowed to do so.

3105. (*Sir William Lewis.*) That would depend upon the effect, but suppose that by these ten men striking against this one man, 100 other men in your employ were also affected, do you consider that the Trade Union, which I will not say incites to, but at all events approves of this, should be made liable for the loss caused to you in respect of their action ?—You mean I should have to pay the other men more money in consequence of their action ?

3106. Yes, or your work might be suspended ; you might have a contract, which you had to finish in six months, and you might not be able to finish it in twelve : for whatever loss you might sustain by their action ought they to be made liable at law or not ?—Yes, if they interfere with and damage my business, but as the Chairman points out they must interfere. I am sorry I cannot quite see it, but I cannot. It looks to me that while I have money to carry on my work, and there are plenty of men in the country, I should be allowed to get them ; but the result of the union striking my works would be to prevent me getting them, not by their act of having struck my works and leaving it, but by interfering with those other men coming to me. If 100 men strike and leave my works while I have money, I can send and get some men from somewhere else, but they will not let me.

3107. Whether the effect is direct or indirect, the question is, ought they to be made liable for the effect on your operations ?—I have tried to define my opinion on that point by saying that so long as they withdraw their men they ought to have the right to do that if they like, if they stop there, but they must let me fetch other men in to carry on my business.

Mr. James
Wright.
7 Dec. 1904.

3108. (*Mr. Cohen.*) Your opinion is this, I think, that a Trade Union, if it induces workmen to abstain from taking the place of other workmen who have struck, ought to be liable to the employer whom it thereby injures?—Yes, that is what I mean.

3109. (*Sir William Lewis.*) What is really, from your experience, the practical effect of the case that has been put forward?—My experience of course has been chiefly in Nottingham, where Trade Unionism prevails to such an extent that we do not get that experience. We cannot get a non-society man of any description, but I am looking at the case that does occur in towns where trade unionism does not prevail to such an extent.

3110. (*Chairman.*) It may be assumed, may it not, that the aim of every strike, and the result of every successful strike, is to bring compulsion certainly upon the employer, and if the quarrel concerns non-unionists it brings compulsion upon them also; you agree to that?—Yes.

3111. Therefore the point which has to be considered is this, whether such compulsion shall be lawful or unlawful. Now I will put it in two ways to you, and one is this: You have said that you think they should be at liberty to strike. Do you consider there should also be liberty to incite to strike or to induce persons not to work for a master?—To induce other persons? I am not going to say that I think unions ought not to be allowed to strike so long as they do not interfere with other people; the ultimate result, as you say, of their striking may interfere.

3112. Must interfere?—Must, if it results favourably to them, but they are waiting the time; they could not interfere with me if I could carry on my work.

3113. While you are carrying on your work you try to get any labourers to enter your service you can, do you not?—Yes, in the case we are putting.

3114. And if you can get some of the unionists into your service all the better: you pay them more if you can get them?—More?

3115. If you can induce them by the offer of higher wages to leave the strike and come into your service, you do it?—No, I never heard of such a case.

3116. It is quite a common case, is it not, for a master, whose works are struck, to induce persons to come and work for him by offering them higher pay to get them out of the strike?—Sometimes it is.

3117. A battle is raging as between you as an employer on one side and the workmen and trade union on the other, and you are at liberty to recruit men into your service; why should the unionists not be at liberty to recruit men into theirs?—That just brings me to the point that I could not induce you to see from my point of view before. They are quite at liberty, I grant, to get men into their union, but they have no business to interfere with my men when I have got other men.

3118. Does your action interfere with the interests of the Union by bringing men on strike into your service?—You have just said I should be at liberty to get other men to do my work.

3119. I do say that?—My complaint against the Unions is that by their machinery they prevent that; they have such a connection between one Union and another, by spreading information, that men must not come to work with my firm under such conditions.

3120. (*Sir William Lewis.*) Do you consider that the cases put by the Chairman are parallel? There is no comparison between the two sets of circumstances of the Union getting men out, and you having to get men in order to replace those that have been taken out by the action of the Union?—Is there not?

3121. (*Chairman.*) The point I put is that the Union will not allow you to have other men outside the strikers?—That is the point.

3122. What are the steps which under those circumstances the unions take in order to prevent you getting other men?—They have every railway station and place of work picketed.

3123. Suppose picketing to be abolished, what else do they do?—That has been their main line of defence, there is no doubt, under such circumstances.

3124. And if picketing is abolished all our present discussion is rendered unnecessary?—They would disseminate information in the best way they could, undoubtedly.

3125. Do you propose to make that unlawful?—No, I do not think I should.

3126. Then what is it you object to as being unlawful which the Unions do?—So interfering that they can prevent these men coming by spreading the news abroad.

3127. In what other way?—Many ways I cannot define.

3128. One way I can suggest at once; they do try to induce people not to enter the service of an employer and they do try to induce persons who are in the service of the employer to leave it; do you consider either of these actions, supposing there is no illegality in the way of intimidation and so on, is unlawful?—No, if it is done peacefully only.

3129. (*Sir William Lewis.*) Have you ever heard of their taking steps to prevent men and their families obtaining cottage accommodation, and have you ever heard of their taking steps to prevent lodgers having lodgings in the neighbourhood of a particular works?—That is not within my personal knowledge.

3130. (*Chairman.*) Take these two things, you would say, I suppose, that they are very unreasonable, would you not?—Yes.

3131. Would you make them unlawful?—Yes, I think so.

3132. On what ground?—If the men come to work, they are Englishmen and they ought to be allowed to work and have a home near their work.

3133. What is the illegality of that conduct, taking the extreme case of the Union going to a lodging-house keeper and saying, "I hope you will not give lodgings to any of the men who are at work"?

3134. (*Mr. Cohen.*) Take this case: supposing the Trade Union goes to a lodging-house keeper and says, "Some workmen will come here and I will give you £1 a week if you refuse to let them lodge with you"?—I say that ought to be unlawful.

3135. (*Chairman.*) I will put another case. Supposing the unionists go to a lodging house keeper and say, "Unless you refuse lodgings to the blacklegs we shall not deal with you;" do you consider that ought to be unlawful?—Yes, I do.

3136. I do not know whether you can generalise what you have said. Strikers may be dealt with in these various ways; the law might conceivably say "all strikes shall be legal," or it might say "all strikes shall be illegal," or again it might say "some strikes shall be legal and other strikes shall not be legal," or again it might say "the law shall not say which strikes shall be legal or illegal but the law will leave it entirely to the judges to say in each case whether the strike is legal or illegal." Assuming that you rejected the first two alternatives, you would not say that all strikes were legal or that all strikes are illegal, but supposing you entertain the third alternative can you suggest any general rule which would put into one class the strike that should be lawful and into another class the strikes which should be unlawful? Can you suggest a general rule?—I am afraid I could not, just now.

3137. Would you then be in favour of the fourth alternative, which is to leave the settlement of that difficult question to the discretion of the courts?—I think I should if it was to the high courts, but not to magistrates.

3138. Let us take the Supreme Court: do you think that workmen or employers would have any reason to complain if their interests and fortunes so far as they were affected by a strike were placed absolutely at the mercy of the judges in the exercise of their discretion? Would you not feel that to be a harsh law?—It would want wide discretion and good judgment, of course.

3139. (*Sir William Lewis.*) But you have not answered the question?—I am afraid I cannot.

3140. (*Chairman.*) Do you not think it would be an impracticable law—that a strike should be lawful or unlawful just as the judge thought fit?

Mr. James
Wright.
7 Dec. 1904.

3141. (*Mr. Cohen.*) Do you not think that would be a very un-English system, to leave your rights and liberties to be determined by the court without any definite rules to guide the court and rules that are known to the citizen? Would you approve of that?—It is a most difficult question, of course, and I should think perhaps as far as I can form an opinion on the question put to me now that it would be better if it is possible to get a law regulating strikes that would be fair to both parties.

3142. Allow me just to suggest this, that our chairman omitted one alternative. You say you are not prepared now—because of course you are not a draughtsman or a lawyer—to say what kind of strikes should be lawful and what kind should be held unlawful, or under what circumstances they should be held lawful and under what circumstances they should be held unlawful, but have you formed the opinion that it would be impossible to clear up the law on that point so that a citizen may know whether he is doing an unlawful act or not in conducting a strike, in directing a strike, or in acting in pursuance of a strike? Do you think it impossible that the law should be made clear?—From my experience I almost think it is impossible.

3143. On account of the conflicting decisions of different courts, do you mean?—No, more on account of the many ways of circumventing all kinds of fixed law and restrictions.

3144. (*Sir William Lewis.*) Do you not think that the varieties of courts and the varieties of circumstances render it impossible for you to lay down any tabular statements indicating, as suggested by the Chairman, what class or what particular strikes are actionable, and what strikes are not actionable, and therefore that it would be better to leave it to the decision of a judge at the time considering the particular circumstances as well as the whole of the arrangements connected with the strike? Would you as an employer prefer to depend upon such a decision to attempting to formulate the various circumstances under which strikes should be actionable or otherwise?—I think I would, and as I said in reply before, there are very many ways of circumventing, getting out of, and evading a definite decision by the men under the circumstances of trade disputes.

3145. (*Chairman.*) Supposing I wanted to conform to the law and the law is that there is no law but everything is decided by the judges upon consideration of the circumstances, how am I to know how to shape my conduct in order to keep within the law? You have not thought of that perhaps?—Well I have not thought of the case put exactly in that light, but I think most Englishmen know, or ought to know, how to shape their conduct without transgressing the law. I quite admit that when trade disputes occur law seems to be of no account, passions run high and men do such things that it seems to me that it would be almost impossible to lay a law down to define exactly where they were to stop.

3146. We were speaking just now of classifying strikes, do you think it would be possible to say that all strikes that were for an unreasonable purpose should be unlawful. Take, for instance, a strike to compel an employer to pay the arrears of members due to the Union, or respecting apprentice and so on, things that seem to you wholly unreasonable, do you think that because the object of the strike is unreasonable, the strike should be unlawful?—I think it should in cases of that kind.

3147. If the matter were left to a judge, I suppose one question which the judge would put to himself would be, "Was the object of the strike reasonable or unreasonable?"—The object might be perfectly reasonable, but the method of attaining it might be not only unreasonable but unlawful and very unjust.

3148. (*Mr. Cohen.*) The difficulty we are considering only presents itself when what is done is not an act which if done by one person would be wrongful; for instance, if the act is a criminal offence there is no doubt that it is punishable, and if the act is a wrongful act there is no doubt that the person injured by that wrongful act could bring an action and recover compensation; we are thinking of cases where the act is not in itself wrongful except so far as it may be considered unreasonable by the judge; do you understand what I mean? You say in certain cases a strike may be unreasonable; then a person who joins

in that strike you think ought to be liable in damages for injury which he has inflicted by so doing with other persons, and you would leave it to the judge in each case to determine whether or not the strike was reasonable. Do you think that would be a satisfactory state of law?—Perhaps it might not be a satisfactory state of law altogether, but I think it would meet the cases that occur much better than any definite law where so many varying cases crop up.

3149. (*Chairman.*) Let me put the matter in another form. Workmen strike against an employer and say, "Unless you pay us £20 to so many workmen out of the union we will not work for you." I suppose you would say that is highly unreasonable?—Yes, it is unreasonable, but I suppose it would not be unlawful.

3150. Now supposing the employer being of a stingy disposition says to his men, "I am going to cut down your wages from 40s. to 30s.," which is far below the market wage, would you say that was an unreasonable act on the part of the employer?—Well it is unreasonable from one point of view, but if he thinks well to do so, he has a perfect right and the men have a perfect right to demand the £20.

3151. Both of them have the right to do that; the workmen may ask for a fine of £20 or £10,000 if they like and the employer may cut down the wages to 6d. a week if you take an extreme case; both of them are unreasonable and neither is unlawful in itself. Should it nevertheless be made unlawful?—It should be made unlawful, I think, if the men making this demand combine to prevent me getting others.

3152. Do you not see that the mere fact of their combining does interfere with your work?—No, excuse me.

3153. (*Sir William Lewis.*) You draw a distinction, I take it, between twenty men giving notice requiring additional wages and those twenty men accompanying that with a statement that unless they get it they will prevent any other men taking their places at the end of their notice?—Of course that would make a great difference.

3154. That is the whole point; simply giving notice and separating is one thing; that is to say, the workmen may give the employers notice or the employers may give notice terminating the contracts, and there is nothing in either of these two things, but if the men along with their notices or subsequently to that take steps to prevent other men being employed to do their work that is a very different matter?—Yes.

3155. (*Chairman.*) That means, does it not, that you think inducing to strike or to abstain from working should be unlawful; is that your position?—Under certain circumstances.

3156. Does not that go to the very root of unionism? Would not every Union be unlawful?—I do not see that.

3157. If the union are of opinion that wages should be increased and send round to the men saying "ask for that increase and if not strike," that would be, according to you, an unlawful act on the part of the Union?—No, I do not think so.

3158. As to interference afterwards why is it more wrong for the Union to induce people after a strike has begun, not to enter the service of the employer or to leave it if they are in the service, than it is wrong for the union before a strike to suggest to the men that they shall leave the employers' service unless he agrees to their terms?—My position is that they have a perfect right so far as I can see, and I think they should have—I am not against trade unions in that sense—to do as they like so long as they respect other people's rights.

3159. They have the right to strike but they have no right to what they call "complete" a strike?—Oh yes.

3160. (*Mr. Cohen.*) I think what you mean is this You do not think a Trade Union ought to be allowed to exercise its powers over its own members in preventing them from going into the employ of any employer after a strike has been declared, is that your opinion?—They ought not to have the power to prevent them.

3161. They have great power over their own members, have they not, taking the thing step by step?—Yes.

Mr. James Wright. 3162. They can exercise that power by giving orders to their own members, can they not?—Yes.

7 Dec. 1904. 3163. And their members will know that unless those orders are obeyed they may be expelled?—Yes.

3164. If a trade union exercises that power after a strike has taken place, in ordering its members not to go into the employ of that employer and to take the place of the strikers, you consider that they then do an act which is wrong and which ought to be punished and in respect of which an action ought to be maintainable? Is that your view?—Not quite.

3165. I am speaking of their exercising their power over their own members: is what I have just stated your opinion?—I think they have a right over their own members and they can order their members to strike and stop away if they like, but they have no right to interfere with my getting other men.

3166. How do they interfere with the men who are not members of their Union?—They do interfere with them.

3167. How—by illegal intimidation?—Yes.

3168. You think illegal intimidation ought to be punished and so does everybody, but apart from illegal intimidation if they have not in any sense directly or indirectly been guilty of illegal intimidation do you think the trade union ought to be liable to an action in the case I have put?—I do not, so far as I understand your question; my position is that I think they ought to have perfect freedom to do as they like so long as they do not interfere with anybody else.

3169. I daresay you would agree with me that almost the only thing that can be complained of really amounts to illegal intimidation; you would prevent any serious intimidation, would you not?—Yes.

3170. (*Sir William Lewis.*) But would you not go further and say any interference whatever with you in getting men to take the place of men who had gone out on strike?—Yes.

3171. It does not matter whether they are unionist or non-unionist?—No.

3172. (*Mr. Cohen.*) Then you have departed from the view you have just now expressed to me; do you really say that any interference ought to be prevented?—Interference with other people than their own members.

3173. Any interference?—Yes, with others than their own members; if I said anything different I have misunderstood you.

3174. Any persuasion? We are now not speaking of intimidation, and we are supposing that no intimidation takes place; if there is no intimidation the only way in which they can interfere is by persuasion. Supposing a trade union (and I think this will test your views), or the official of a Trade Union, were to say to some workmen not members of the Union, who were ready to take the place of strikers, "Now we will give you a pound a week if you do not go to that employer;" do you think that would be illegal?—That is a very extraordinary case; it might pay the men better to go there than to come to me, and if so, they have a perfect right to go.

3175. Is that your answer? Do you mean that would be legal in your opinion? Let there be no mistake about the case I am putting to you. There is a strike and certain workmen are going to the employer in whose business there is that strike. The Trade Union sends a delegate to those workmen, who says to them, under instructions from the Trade Union: "Now, if you will not go to that employer who wants your services we will pay you £1 a week," and the workmen are induced by that offer not to go to the employer, and the employer who has a heavy contract in hand loses that contract and is in that way injured; would you say in that case an action should lie against the trade union? You understand the case?—Yes, I think I do.

3176. What do you say?—It seems to me that that really is the case I have been thinking of—that that would interfere with me.

3177. (*Sir William Lewis.*) I was going to ask you—do you not think that would be a serious interference?—Yes.

3178. (*Mr. Cohen.*) Do you think that that ought to be punishable or ought to be the subject matter of an action?—Yes, if I suffered damages in consequences.

3179. (*Chairman.*) You would agree, would you not, that when a strike takes place, there is a very material interest to the strikers in the success of the strike?—Yes.

3180. And you would agree also that every workman they lose from the body of the strikers who goes over to the employers is a loss to the strikers?—Yes.

3181. And imperils the interests the strikers have in the strike?—Yes.

3182. If then the employer manages, by offer of high pay or otherwise, to induce some of those who are on strike to resume service with him, that employer is really interfering with—doing harm to the interests of the strikers as a body; you agree to that?—Yes.

3183. Then if, as you have answered before, your opinion is that the strikers who offer extra pay to the workmen not to work for the employer are interfering with the employer, then the employer offering extra pay to the strikers to come over and join his service is interfering with the strikers and he ought to be equally amenable to the law; do you agree to that?—But he does not cause them damage.

3184. Does he not cause them damage? If a hundred persons go over from the strikers to the employer, are not the strikers in a much worse position than before? Are not their interests affected by that directly?—They do not suffer any damage.

3185. Yes, their future prospects are injured to that extent?—They are not ascertained; they cannot be damaged.

3186. It would be rather difficult to ascertain, but supposing the effect of these men going over to the employer is to put an end to the strike by which the strikers had hoped to get 5s. a week addition to their wages, the whole of that is lost?—The hope is gone then.

3187. And their prospects in the strike have been destroyed?—Yes, but there is no damage.

3188. In that sense the master interferes with the workmen?—They have gone on strike with a view to try to get something else, and if they fail they cannot have suffered damage.

3189. (*Sir William Lewis.*) They have gone on strike with the risk of such action?—Yes, the same as I do when I have a contract. I cannot see where they can be said to suffer damage.

3190. (*Mr. Cohen.*) In Nottingham are Trade Unions very powerful?—Yes, more particularly in the building trade.

3191. There are not many non-unionists?—None.

3192. There are no non-unionists in Nottingham in the building trade at all?—I just want to qualify that in this way—that there are none amongst the regular builders; there may be some who work with the smaller outside men who build a few cottages and that sort of thing, but in the city, amongst the recognised builders, there are no non-union men.

3193. So that you have little or no personal experience in connection with disputes between unionists and non-unionists?—Only such as I have gained by being connected with the trade.

3194. By hearsay from other persons?—Yes. As to the question you put to me just now about non-union men, I have had experience in disputes where non-union men have been concerned in connection with the Builders' Federation; I have heard cases discussed and taken part in the discussion, but I have had no personal experience of them in my own business.

3195. (*Chairman.*) You are the Official Representative of the National Federation of the Building Trades' Employers?—Yes.

3196. Has that Federation got any rules on the subject of strikes as to the assistance to be given to members of the Federation who are struck against?—No, the executive have power to grant aid if they think it advisable.

3197. As a matter of practice, do you assist one another upon strike?—I have never heard of it.

3198. Each of you acts independently so far as that is concerned?—Except as to the unity of action. I take it your question refers to money assistance?

3199. Generally, but have you ever had a lock-out in your trade?—Practically, not wholly.

3200. Therefore it is known that one set of employers would assist another in the case of trouble by locking out their workmen?—Yes.

3201. Do you see any difference in that and one Trade Union assisting another in the case of a strike?—Yes.

3202. What is the difference?—Because a lock-out would only take place under some circumstances where men have been trying to enforce some conditions which were very detrimental to the general body of the employers,

but a strike might take place for some particular thing in one union that did not affect the others at all, and they might combine to try and enforce it, nevertheless. Yet it would not injure them one penny.

3203. Do you think the legality or illegality should turn upon the point whether all of them should bear the same interest?—I think so; I do not think they ought to have a legal right to interfere to bring that pressure to bear.

3204. Not to interfere in the form of assisting one another?—I do not think they ought to be allowed to conspire; it is nothing but conspiracy, is it? I am sorry if I cannot follow your questions.

3205. Have you anything more you wish to say?—No, except that I think Trade Unions are quite capable of looking after their own interests without special legislation to assist them.

Mr. James Wright.

7 Dec. 1904.

TWENTY-THIRD DAY.

Thursday, 8th December, 1904.

PRESENT.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B. (*in the Chair*).

Sir WILLIAM THOMAS LEWIS, Bart.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.O.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*).

Mr. FREDERICK MILLAR called and examined.

3206. (*Chairman*.) You are Secretary to the Employers' Parliamentary Council and the Labour Protection Association?—I am.

3207. You have sent in a *précis* of the evidence which you are prepared to give?—Yes.

3208. We propose to place this on the proceedings of the Commission unless you see any objection?—None whatever.

The Statement is as follows:—

I am the secretary of the Employers' Parliamentary Council and the Labour Protection Association, and in that capacity I have had considerable experience of labour disputes and of the litigation arising out of the same.

The Employers' Parliamentary Council have been directly concerned in many of the important cases, having been called upon in the general interests of employers to give assistance to those employers who were not in a position to fight the cases effectively. I have carefully considered the Bills (*Vide Appendices, pp. 7 and 8*) laid before me by order of the Commission, and beg leave to submit the following observations thereon:—

Picketing.

The Clauses dealing with this matter are intended to legalise what is known as "peaceful picketing," by which is meant attending during a trade dispute, not merely for the purpose of "peacefully obtaining or communicating information" (which is at present lawful), but also for the purpose of "peacefully persuading any person to work or to abstain from working." This provision, if passed into law, would be prejudicial to employers, inasmuch as it would allow a great extension of the system of interfering with employers' businesses which now exists. It is well known that it is the practice of labour unions during a strike to send men to watch not only the employer's premises but also the houses of the men working for him. This system, even when limited to the lawful purpose of obtaining or communicating information, is very apt to amount in fact, if not in law, to intimidation, and this is more particularly the case when the pickets assemble in large numbers, as they frequently do. It is obvious, however, that the situation becomes im-

mensely aggravated if the men are to be allowed to enter upon argument and persuasion. Without any deliberate intention on the part of the pickets, it is almost certain that the persuasion will take the form of a heated argument, and this may easily pass into intimidation. The case of *Bailey v. Pye* is a fair example of what frequently takes place under the name of "picketing." The circumstances were briefly as follows:—

The plaintiffs, Messrs. J. and W. O. Bailey, glass merchants, silverers, and bevellers, claimed damages for injury to business by the acts of the defendants, members of the National Plate Glass Bevellers' Trade Union, of which Pye was secretary, and they also asked for a perpetual injunction to restrain the defendants from a repetition of their unlawful conduct. Until this dispute, the plaintiffs had had no labour troubles, as they had not objected to employ labour unionists, and had paid rates which accorded with labour union demands. In September, 1895, however, Messrs. Bailey arranged with an apprentice, on the expiry of his indentures, to employ him as under-foreman, and to pay him by the hour, instead of by the piece. He accepted the terms offered, but the Union ordered that he should be paid piece rate or dismissed. Messrs. Bailey received the Union Secretary in interview, but declined to cancel the agreement with their employee. The Union thereupon instituted a strike. The following day Messrs. Bailey received a deputation of strikers, who, on matters being explained to them, expressed a desire to return to work. Messrs. Bailey agreed to take them all back, with the exception of one man who had assaulted one of the old hands for continuing to work. The Union Executive, however, determined that all must be taken back or none. Messrs. Bailey refused, and within half-an-hour their premises were "picketed." Several serious assaults occurred, and some of the assailants were imprisoned for nine months and shorter terms. At the trial, in January, 1897, the defendants' counsel offered no explanatory evidence, but agreed to accept an adverse verdict, consenting to judgment against his clients for a total of £1,217—viz., £674 damages and £543 costs, together with the granting of a perpetual injunction as asked for. Messrs. Bailey have since recovered the net sum of £5 as a result of executions levied upon the principal defendants.

Mr. Frederick Millar.

8 Dec. 1904.

Mr. Frederick
Miller.
8 Dec. 1904.

It is to be noted that the words "it shall be lawful" at the beginning of Clause 1 of the Trade Disputes Bill of 1903, and the Trades Unions and Trade Disputes Bill of 1904 (*Vide p. 7, Appendices*), would in all probability be held by the Courts to alter the law in another way. It is clear that the limited kind of picketing allowed by Section 7 of the Conspiracy and Protection of Property Act, 1875, might in a proper case be dealt with by an action for nuisance. All that the section does is to prevent it being punished as "watching or besetting," but it is left open to be dealt with under any other branch of the law that is applicable to the circumstances. It seems clear, on the other hand (or at any rate it is arguable), that the words "it shall be lawful" would exclude any kind of proceedings whatever, so that not only would picketing be lawful for an object at present unlawful, but the common law of nuisance in any case of picketing would be abrogated.

Conspiracy.

Whether the clauses dealing with the law of conspiracy are of any importance is somewhat doubtful. If the view taken by some of the lords in the case of *Quinn v. Leatham* be the correct one, the abolition of the law of conspiracy in regard to trade disputes is a matter of indifference. The following quotation from Lord Lindley's judgment in that case represents an opinion shared by many judges, but which does not appear to have been affirmed with sufficient unanimity to enable it to be regarded as altogether beyond doubt:—

"It was contended at the Bar that if what was done in this case had been done by one person, his conduct would not have been actionable, and that the fact that what was done was effected by many acting in concert makes no difference. My Lords, one man without others behind him who would obey his orders could not have done what these defendants did. One man exercising the same control upon others, as these defendants had, could have acted as they did; and if he had done so, I conceive that he would have committed a wrong towards the plaintiff for which the plaintiff could have maintained an action."

If, on the other hand, it be assumed that the judgment in *Quinn v. Leatham* can only be supported by the common law of conspiracy (which certainly appears to have been the view of some of the learned lords who decided the case), then the necessity for its maintenance is obvious. The facts were as follows:—

Leatham, the plaintiff, was a butcher at Lisburn, near Belfast, and he had in his employment one Robert Dickie, who had been with him for ten years. Leatham had been in the habit of sending meat to the value of about £30 a week to a butcher in Belfast, named Andrew Munce. Craig and the other defendants formed themselves into a duly registered labour union, under the title of "The Belfast Journeymen Butchers' Assistants' Association," and shortly afterwards demanded that the plaintiff should dismiss Dickie from his service, which he refused to do. As he was threatened with various unpleasant consequences by the Union, the plaintiff had an interview with Craig and other leading members, and offered that, if they would accept his men as members, he would pay whatever fines and demands the Union might have against them. The union refused this offer, and insisted that the men should be put out to walk the streets for twelve months as punishment. The plaintiff refused to yield, and in consequence pressure was brought to bear upon his servants to leave him, and upon Munce to discontinue taking meat from him. The labour union also issued "black lists," upon which were the names of Leatham and other butchers who had offended against the society's rules. Such proceedings constitute an intolerable wrong, for which the law should provide some remedy, whether by means of an action for conspiracy or otherwise. For the same reason Clause 1 of the Trade Unions and Trade Disputes Bill of 1903, and the similar Clause in the Bill of 1904, should not be passed.

Labour Union Liability.

The clauses which propose to relieve labour unions of liability for the unlawful acts of their agents and servants would prejudicially affect employers, since such change in the law would enable the unions to commit illegal acts with impunity by employing as their agents men from

whom little or nothing could be recovered. The cases of *Bailey v. Pye*, and *Quinn v. Leatham*, already referred to, which were commenced before it had been made plain by the judgment in the House of Lords in the Taff Vale Case that labour unions could be sued, show that an employer with a good case, if unable to sue the union responsible for the wrongs of which he complains, must be left for all practical purposes without a remedy. Messrs. Bailey estimated their direct loss at over £2,000, and Mr. Leatham was reduced nearly to bankruptcy, and would have been quite unable to appear against the appellants in the House of Lords if he had not been assisted by subscriptions from other employers.

Employers' action to check Picketing.

I now come to the organised action taken by the employers to check the evils of picketing. In the summer of 1897 a private meeting of influential employers and representatives of Employers' Associations was held in London, for the purpose of forming a Federation, to be called the Labour Protection Association, having for its primary object the repression of the tyranny of labour unionism in connection with labour disputes and during strikes. At this meeting it was resolved to test systematically the efficiency, or otherwise, of the existing laws for the protection of free workmen, and, if necessary, to obtain an amendment of such laws. It was further resolved to watch all strikes, and ensure the observance of the law in all disputes between employer and employed. The first step taken by the Labour Protection Association was to distribute among the leading employers, the magistrates, and chief constables throughout the country, copies of a handbook entitled, "The Case against Picketing." It was felt that the impunity too long accorded to the brutal forms of intimidation practised by labour union pickets was due to either ignorance of the law or to an unreasonable leniency on the part of magistrates towards the unions. To secure the conviction of an intimidater was almost hopeless, magistrates contenting themselves with administering a caution to the accused. In hardly any case was labour union terrorism severely dealt with. A reaction, however, set in, and in 1898 a more wholesome and satisfactory method of interpreting the law was adopted. A labour unionist, who threatened to murder a free workman unless he threw up his work, was no longer dismissed with a caution, or a small fine to be paid out of the union's funds. Imprisonment with hard labour soon became the rule. A typical example of the change which had come over the magistracy and the judicial Bench is found in the remarks of Mr. Corser, who at Worship Street Police Court, on November 30th, 1898, in dealing under the Police Act with a case of disorderly conduct, molestation, and the use of insulting language to workmen, said:—"He considered it an absolute disgrace to the country that workmen who wished to keep their employment and sell their labour as independent men should be subjected to abuse, and often violence, and followed to and fro, so that they had to be protected by police to enable them to get away safely. It was an absolute disgrace which he would do his best to put down, and if any man connected with the strike was brought before him he would deal with him very severely." And yet six months previous to this a member of the Government told one of the committee of the Labour Protection Association that "No magistrate will convict a labour unionist charged with acting on the instructions of his union."

The bodies on whose behalf I speak submit that the protection of workmen in the exercise of their civil rights should not be left to a private association, but that it is the duty of the State to provide such protection at all times and under all circumstances. The suppression of picketing, it has been said, is merely depriving one set of men of rights which they abuse, in order to preserve to another set of men the rights which they desire to lawfully exercise. Any legislation that tends to legalise labour union tyranny, to lessen the responsibility of labour unions for the misdeeds of their agents, would, in the opinion of the federated employers, for whom I act as secretary, be contrary to the best interests of employers and workmen alike, since it would render the free conduct of industry impossible, and imperil the trading and commercial interests of Great Britain both at home and abroad.

3209. The first matter with which you deal is picketing: will you state what is your objection to the proposal that watching and besetting a house for the purpose of peaceful persuasion should be as permissible as watching and besetting a house for obtaining or communicating information?—It would result in the intimidation of the workman and prevent the due exercise of his civil rights.

3210. Do you see much difference between peaceful persuasion and giving and obtaining information?—I do not think peaceful persuasion properly so called is possible during a trade dispute.

3211. Will you please answer my question?—Would you mind putting it to me again?

3212. Do you see any difference between watching and besetting for the purpose of giving and obtaining information and watching and besetting for the purpose of peaceful persuasion?—Every difference.

3213. In what does it consist?—Peaceful persuasion consists wholly, to my mind, in intimidation of the men; persuasion during a trade dispute could not be peaceful. A wrangle in the street between different factions interested in a trade dispute would certainly result in disorder, and probably in violence.

3214. Are you in favour of watching and besetting being continued to be legal if exclusively for the purpose of giving and receiving information?—No, unless it is for the mere publication of a statement of facts relating to the dispute. Standing about outside an employers' works publicly crying the fact that a strike is on is what it might amount to, and that I certainly think should be prohibited.

3215. What is the information which is given and received, or supposed to be given and received; can you tell me?—I will give you what I consider to be a good illustration:—In the case of men being sent away from one place to another, say, from Manchester to Sheffield, it has happened that pickets representing the strikers at the place to which the men were going have gone to the stations at Manchester and accosted the men and explained to them that a strike was in progress at Sheffield, and that by going to Sheffield they would be taking the bread out of the strikers' mouths, and at the same time running the risk of being ill used at the hands of the strikers.

3216. Do you think that was an abuse of picketing?—Yes, especially in the case of men who were being employed on the strength of advertisements in the newspapers; in fact, that was the case in the great Denaby strike when the colliery company advertised throughout the colliery districts in the North and in Scotland for men, and the men on their arrival at the station for Denaby, I believe Doncaster, were met by pickets and subjected to what I call intimidation, and it was only by the services of a body of private police that the men were got into the colliery to work. Had it not been for the protective measures taken by the colliery company the men on their arrival would have had their fares paid and been packed off to their homes.

3217. The law, as you know, permits now attending for the purpose of giving and receiving information: do you think that law should be continued?—Yes, just for the simple purpose of conveying information about the strike; that is to say, if a man is in the neighbourhood where a strike is going on and sees a workman approach with the intention of going in to seek employment, the first man should not be debarred from going up to him and explaining to him that a strike is in progress and giving him the reasons why he should not go in.

3218. In the abstract there is no objection, is there, to peacefully persuading?—None whatever.

3219. And in the abstract there is no objection to giving and receiving information?—None.

3220. The question on both these matters really turns upon its connection with picketing; that is to say, whether that should be carried on by means of, or in connection with, the watching and besetting of a house or premises?—Yes.

3221. Are you in favour of it being permissible to watch and beset a house for any of those purposes, either peacefully persuading, or giving and receiving information?—I certainly am opposed to watching and besetting a

house for the purpose of conveying information because I do not think that watching and besetting is necessary; the information could be conveyed without watching and besetting taking place.

3222. What is the information which is supposed to be received on these occasions? Have you given your mind to that?—The information with regard to the cause and facts of the strike.

3223. We have spoken about the information to be communicated, and now I ask you what is the information which is supposed to be received on those occasions?—Of a various character.

3224. What is the information which it is supposed the strikers will receive from those who are taken into employment?—I suggest information from one of the workmen as to what is going on in the works.

3225. Whether the master is able to carry on in spite of the strike?—Yes.

3226. What he is paying his men?—Yes.

3227. Whether he is in trouble with the persons he is under contract with and so on?—Yes.

3228. Do you consider that the receiving of such information as that should be a justification for watching and besetting the premises?—I do not.

3229. Therefore you think that the enactment should be altered or abolished?—Yes, for the reason I gave in answer to another question, that the information could be received without watching and besetting.

3230. It cannot be received except in that way, because the strikers outside do not know what is going on inside the walls?—They know who is working there.

3231. They do not know what is going on?—Unfortunately they always do.

3232. (*Sir William Lewis.*) Is it not common knowledge before a strike takes place as to the matters in dispute as a rule?—Yes.

3233. (*Chairman.*) We are not speaking of the knowledge that is to be communicated; it is the knowledge that is to be received?—They invariably receive it from one of their own spies; they can always get a spy into the works, and it is done regularly.

3234. Then I repeat the question: do you consider that any information which is received or is contemplated as receivable from those at work, constitutes a sufficient reason for watching and besetting of premises?—I do not.

3235. Therefore again I repeat: do you wish the Act of Parliament, which does authorise that at present to be repealed?—I would make the whole matter more clear; I would not suggest the prohibition of the existing right to seek information or to use peaceful persuasion.

3236. But as we said before, everything depends on the condition, namely, that the information is to be received and communicated or that persuasion is to be carried on in connection with watching and besetting?—Yes, and the watching and besetting under certain conditions might amount to this, that twenty men might stop a man in the street and surround him and he would be compelled by those very conditions to give the information that was asked of him.

3237. On the question of the liability of the funds you have a distinct view, that the liability of the union for the unlawful acts of its agents as established by the Taff Vale case should be continued?—Quite so.

3238. And you think that the superseding of that judgment would be an act of public injustice?—It would bring back the old state of things from which employers and workmen alike suffered for many years.

3239. If the union funds are not liable can anything be got out of the individual unionists?—Nothing whatever; it has been shown over and over again.

3240. You give a remarkable case?—Yes, *Railey v. Pye*.

3241. They lost nearly £2,000 and recovered £5?—Yes.

3242. In your *précis* there is a head of "Conspiracy," and you refer to the law laid down in *Quinn v. Leatham*; have you studied that case carefully?—Fairly so.

Mr. Frederick
Miller.
8 Dec. 1904.

Mr. Frederick
Millar.
8 Dec. 1904.

3243. The remarks you make, if you will allow me to say so, are very pertinent, but you wind up by saying so far as the decision in *Quinn v. Leatham* rested upon conspiracy that "such proceedings constitute an intolerable wrong for which the law should provide some remedy whether by means of an action for conspiracy or otherwise." Now you are familiar with the circumstances of *Quinn v. Leatham*, are you not?—Yes.

3244. Will you tell me which are the circumstances that you think are intolerably wrong?—The issue of the black lists is referred to here.

3245. *Quinn v. Leatham* is not decided on black lists?—Quite so, but I say here that the union also issued black lists which contained the names of Leatham and other butchers, and that these proceedings constitute an intolerable wrong, and the issuing of black lists ought to be put a stop to.

3246. I do not press these words of yours because you could alter the *précis* if necessary, but the words in your paper are "such proceedings" which means the issue of black lists?—Yes.

3247. Apart from the black lists do you consider that the proceedings of the unionists in *Quinn v. Leatham* on which the judgment was given, constituted an intolerable wrong?—Undoubtedly.

3248. Tell me one of these proceedings?—The action taken in the first instance to induce Leatham to discharge the man in his employ.

3249. Why is that an intolerable wrong? Was there anything unlawful in it?—I should say certainly; it was a conspiracy to deprive a man of his civil rights, not the employer only, but the workman too for no reason whatsoever other than the whim of the union.

3250. Might it not with equal truth be put in another way, that it was merely a promotion of their own interests by means which were not in themselves unlawful?—Yes, but at the expense of a man who was doing no wrong either to themselves or to any one else.

3251. Was not that the necessary consequence of their proceedings?—If was perfectly necessary to the conduct of labour unionism I grant.

3252. Do you consider then that it should be unlawful or is unlawful for unionists to strike against non-unionists?—Not at all; the liberty to strike is perfectly admitted generally, but the liberty to interfere with men who are not interested in the strike is quite a different question.

3253. If at a particular time the unionists strike against non-unionists, do they not interfere with those non-unionists?—They did here.

3254. In every single case of a strike against non-unionists which has happened, and every case which could be conceived to happen, is not the inevitable effect that the strike does interfere with somebody?—It must, in the conditions under which strikes have been carried on lately.

3255. Not under any particular conditions but under any conditions whatsoever?—That is a question I would not care to answer either with a yes or no. The object of the strikers is to enable the strikers to get their own ends; if their ends are defeated by the employment of fresh non-union labour they can only ultimately succeed in their object by getting rid of the non-union labour, and therefore the non-union labour must eventually be involved in the whole dispute.

3256. Then why is that unlawful?—Because it is a conspiracy to deprive a master of his right to employ whom he pleases, and a conspiracy against the men's right to work for whom they please.

3257. If that is so, why are those words not applicable to every strike that ever happened? Supposing a simple strike for increase of wages, is not that a conspiracy, or a co-agreement amongst the strikers to compel the master to pay out of his pocket more wages than he feels inclined to do?—Yes, it is a resort to a desperate remedy to get their own ends.

3258. Is that lawful or unlawful?—Perfectly lawful.

3259. Then what is the difference between that and the strike against non-unionists?—The next step taken by the unionists is the step which I hold is unlawful, namely, to prevent the master carrying on his work on the old terms with new men.

3260. How do they attempt to prevent the master?—By preventing the men from going into the works.

3261. You mean by picketing?—Yes, by picketing.

3262. That is a different thing, because picketing is unlawful in itself?—By inducing the men to leave.

3263. I think in *Quinn v. Leatham* there was no picketing, was there?—No.

3264. Then just point out the mode in which workmen are prevented from working for an employer?—Being induced by any means to leave the employer's work.

3265. Do you think that it is unlawful or do you propose that it should be unlawful—to persuade a man not to work for a master?—As I said before I do not believe persuasion is possible; it must be something more than persuasion properly so called.

3266. You are going back now upon picketing or supposing that pickets are trying to persuade. Put picketing out of the case; there was no picketing in *Quinn v. Leatham*?—No, but the conspiracy in the Taff Vale case illustrates my point clearly.

3267. No, because there was gross violence in the Taff Vale case?—Yes, and a conspiracy to deprive the railway company of the services of their new men.

3268. Of course there was the desire to prevent the employers from getting men and the intention to do everything which was lawful to prevent their getting the men, but how are you going to make that out to be unlawful?—In the case of men being bribed to leave a master for the purpose of enabling the union to beat the master in a dispute, that would be an instance.

3269. That is the best illustration you could have; do you think if a workman has engaged to work for a master it should be unlawful, say either criminal or actionable, to persuade him at the end of his contract to work no more for that master?—No, if you put it in that way there should be no deprivation of the right of one man to induce another to do anything that is lawful.

3270. Then what is there unlawful in trying to prevent a man from working for another in that way?—It is not only trying but preventing him by using corrupt means.

3271. What is the corruption—offering him money?—Bribery, backed up by the trade unions, which always exists in these cases.

3272. We keep changing our ground; I want to keep you to the particular point. Do you consider it unlawful to offer a man money as an inducement to him not to renew a contract with his master?—Yes, it is an injury to his master; with a view to the injury of the master I should say it should be unlawful.

3273. Would you say that if a master in time of a strike is extremely anxious to get men it should be unlawful for the master to go to one of the strikers and say: "If you will leave the strikers who are opposing me I will give you an extra bonus"? Would that be lawful or unlawful?—I do not see that the cases are identical.

3274. The question is whether they are identical; why do you say they are not identical?—There is the work to be done on the one hand, and the employer is anxious to carry on his business and he is determined to carry on his business.

3275. But that cannot make the difference between the two cases in respect of legality?—The act of the employer in engaging the services of one of the strikers to get men to come back to his work is not robbing the strikers of anything, whereas, on the other hand, the act of the striker in bribing the non-unionist workmen is inflicting a loss and an injury on the employer.

3276. I quite agree as to the loss?—It is in that that I see the difference.

3277. As to the former point you say that bribing or inducing by payment a man to leave the ranks of the strikers is not robbing the strikers of anything, but let me ask you this: When a strike is once begun, is it not a battle between the employer on the one hand and all the strikers on the other with a view to settling what shall be the mutual terms with each other when the strike is over?—Yes.

3278. Would you not agree that every man the employer can get to work for him is a gain to him and a loss to the strikers?—Yes.

3279. On the other hand every man whom the strikers can induce to work no more for that employer or not to enter his service is a gain to the strikers?—Not necessarily.

3280. Is it not the very object of the strike to prevent the master from getting hands to work for him?—Yes.

3281. Therefore, if that is the object every man whom the strikers induce to join their ranks is a gain to the strikers?—It would not follow that by the calling out of the whole of the non-unionist men the employer would collapse; he is perfectly at liberty to keep the strikers at bay for ever.

3282. Certainly he is, but that does not bear upon the question I am putting to you?—The main end in view with the union is to reduce the employer to subjection, and one of the methods adopted to secure that end would be to call out the non-union men, but it would not follow that the employer would ultimately cave in and yield to the strikers.

3283. (*Mr. Cohen.*) The very object of the employer is also to force the workmen to accede to the employer's conditions and demands, is it not?—I think, sir, that the conditions and demands are generally made on the other side.

3284. (*Sir William Lewis.*) Not necessarily?—Not necessarily but generally.

3285. Nor are they necessarily the same workmen; once the contract is at an end he may employ any one he likes?—Yes.

3286. The men have no claim upon the employer to be employed?—None whatever.

3287. (*Mr. Sidney Webb.*) And similarly the employer has no claim upon the men?—Quite so.

3288. And therefore if the Union, as you say, robs an employer of his right to get the labour of the men, that is rather a confusion of terms, is it not, because the employer has no right to get the labour of the men?—He has the right to get what labour he pleases.

3289. But you have just now said that he had no right on the men; you cannot rob a man of a right which he does not possess?—I am afraid I have become somewhat involved in this matter; if I might make myself clear, the employer has always and under all conditions where there is no contract the right to employ whom he pleases.

3290. (*Mr. Cohen.*) What do you mean by the right to employ?—The right to carry on his business with the help of A, B, and C, or D, E, and F.

3291. (*Chairman.*) If he can get men to work with him?—Yes.

3292. (*Mr. Cohen.*) He has the right not to be impeded by illegal means?—Yes.

3293. But he has no right at all to the services of any man?—Until he has secured the right by entering into a contract with the man to work for him.

3294. Then he has, and for a breach of contract there is a remedy?—Yes.

3295. But where there is no contract between the employer and any of the workmen, has the employer any right to the services of any person?—Not if the person himself elects to leave the employer.

3296. He has the right not to be impeded in any illegal manner?—That is so.

3297. Not to be impeded by illegal picketing?—Yes.

3298. But if he is impeded by acts which a person has a right to do, do you see on what ground the employer should have a right of action?—None whatever, because what is right is lawful.

3299. (*Chairman.*) But to go back, you do not seriously deny, do you, that the defection of one of the strikers into the employer's works is just as much an injury to the prospects of the strikers in the strike as the abstraction from the employer's works of a workman into the ranks of the strikers is an injury to the prospect of the employer?—The circumstances are much about the same, generally speaking, excepting for the qualification I previously made that the strikers are not really injured to the same extent as the employer.

3300. (*Mr. Sidney Webb.*) You say they are injured to some extent?—If the question is one relating to the fight itself they are precisely in the same position, but ultimately it is the employer who loses the services of his men. *Mr. Frederick Millar.*
8 Dec. 1904.

3301. (*Chairman.*) If you agree to that, why should it be lawful for the employer to induce by money a man to leave the ranks of the strikers while it should be unlawful for the strikers to induce by money a man to leave the employer's service without breach of contract?—The workman who is at work is under a contract to work for his employer.

3302. I am supposing the contract is over; there is no breach of contract?—I see no reason why a man should not be persuaded in the way in which we here understand the term, to leave any employment either for other employment or for a purely sentimental reason.

3303. (*Sir William Lewis.*) But once the contract is at an end between the employer and employed the workmen have no pre-empted rights for the continuance of that as against any other set of workmen?—Quite so.

3304. It appears to me to be assumed by the questions you have been answering that the particular men on strike had some claims beyond any other man for employment?—They have none whatever; they are no longer the workmen of the employer.

3305. And if they interfere with that employer in getting any other men to replace them, they are doing that employer a great injury?—Yes, and they are strangers to him; they are not his workmen.

3306. They are absolute strangers after the end of the contract?—Quite so.

3307. (*Chairman.*) Is it your view that in the case of any strike whatever any step which the men take beyond actually leaving is unlawful?—Yes, it should be—any step to injure the business of the master should be unlawful.

3308. But the words "interference with the master" and "interference with the workmen" are most ambiguous terms; every strike, in one sense, interferes with the master, but it does not follow that that interference is unlawful?—The case of the Penrhyn Quarry strike illustrates my point; the men who claimed to be on strike were not Lord Penrhyn's workmen at all, to all intents and purposes they were strangers, and they had and should have had no right to interfere with the men in the employ of Lord Penrhyn; they had ceased to be Lord Penrhyn's employees immediately they left the quarry.

3309. (*Mr. Cohen.*) What offences were they guilty of?—Riot, disorder, and murder almost.

3310. (*Sir William Lewis.*) That was to prevent Lord Penrhyn carrying on his business?—Yes.

3311. (*Mr. Cohen.*) What wrong did those miners do?—No wrong in leaving their work unless they committed a breach of contract.

3312. What other wrong did they do?—In attempting to prevent Lord Penrhyn carrying on his work.

3313. How?—By riot, violence, and so on.

3314. We are all agreed that riot and violence are criminal offences?—Yes, but they are always attendants at labour disputes.

3315. Not always, we have heard?—Invariably.

3316. A large majority of disputes are now settled, we have heard?—Yes, since the alteration of the law.

3317. (*Chairman.*) You said just now, I think, that workmen when their contract is over are in no relation to the master and are mere outsiders?—Quite so.

3318. And have no interest in what the employer does?—That is so.

3319. Why in the world should they do anything?—Why should they care to promote a strike?—They want to get back into the position that they have left.

3320. And therefore they have an interest; therefore they are not mere outsiders?—They have a personal interest, but it is not an interest in the concern; they have a personal interest in getting back to work and getting their own ends, but they have no interest financially or otherwise in the concern such as they possessed when they were actually at work.

Mr. Frederick Miller. 3321. No, but they have a real interest in the matter, or think they have, at all events. What then is to prevent them pursuing that interest so long as they commit no breach of the law?—Nothing.

8 Dec. 1904.

3322. You, nevertheless, want to make unlawful what they do; you want to make that which they do, although it is not unlawful in itself, to be unlawful, because although it promotes the interests of these outsiders, as you call them, it will have a prejudicial effect on the employer?—I wish to make all acts unlawful that prevent the employer carrying on his business, and the workmen exercising their right to work—nothing else. Anything that results in those things should be unlawful and prohibited.

3323. When a lock-out takes place, is not the object of the employer practically to compel the workmen to alter the mode in which they would like their business as workmen to be carried on?—Not always.

3324. In every case. Can you instance a case where that is not so?—Generally speaking a lock-out might be the result of excessive and unreasonable demands on the part of the men with the threat of a strike, and the master says "If you propose to attempt to enforce your demands by striking, I shall close my works at once, out you go, I shall get other men to carry on the business."

3325. Therefore, the object of that employer is to force the men as far as he can to give up the demands which they think reasonable and he thinks unreasonable?—No, his main object is to secure to himself the right of carrying on the works on his own terms, the only terms he conceives to be possible.

3326. (*Sir William Lewis.*) It may be with an entirely different set of men?—Exactly.

3327. Not necessarily with the same men at all?—The man has no enmity towards the workmen. I give you a case in point in connection with a strike in which I was interested as acting for the Labour Protection Association. A large firm (it is not necessary to mention names) about five or six years ago (I cannot remember the date) rearranged the terms under which their hammermen were working and the rearrangement resulted in the hammermen getting some few shillings a week more than they were getting under the terms originally agreed to with the union. The union objected to this new arrangement and the men were told by the union that they would have either to go back on the old terms or leave their employment. The men intimated to the firm the demand of the union, and the result was that the firm told them they could either stay there on the new terms or go. They said they should strike, and the employers, of course, got rid of the men. The end of it was that the men saw that the union demand was unreasonable and they left the union and went back to work. There was a case where the firm would have sent the men adrift right away; they would not have waited for a strike as it might have resulted in every man coming out, and therefore they said: "You have used this threat to enforce a demand which you yourselves do not make, but which the union makes on your behalf, and we shall get other men." They did get other men as a matter of fact and had them in readiness in Glasgow housed in a lodging-house ready to take the places of those men, but the men said: "Under the circumstances we shall give up the union and continue in our employment at the advanced rate of wage."

3328. (*Mr. Sidney Webb.*) Is that what you call a lock-out?—There was a threat of getting rid of them.

3329. Are you aware of the technical term "lock-out"? Is that an instance which you would give of a lock-out? Is not that a mere dismissal of men?—Well, of course, there are lock-outs and lock-outs.

3330. You know what the technical definition of a "lock-out" is?—Yes.

3331. And yet you give us that instance which is not a lock-out at all. Do you suggest that the instance you have given us can at all come under the designation of a lock-out?—The men would have been locked out had they not given way.

3332. But you admit it was not a lock-out?—Because the men did not face the consequences.

3333. (*Chairman.*) What is the inference you draw from the case you have given?—That an employer is sometimes driven to lock out his men.

3334. Assuming that it was a lock-out, does anybody deny that a master has a perfect right to lock out?—I do not think so.

3335. For any reason or for no reason or for a bad reason he may lock-out?—Yes, if it is his own convenience to do so.

3336. And nobody disputes his right to do so?—No.

3337. Therefore I do not understand the purport of the illustration?—I gave the illustration in answer to a question as to what the employer would do in a certain event.

3338. (*Sir William Lewis.*) That was a question of rearranging work to the benefit of the particular men?—Quite so.

3339. But the union would not allow them to accept it?—No, and gave them notice to come out on strike, and the masters said, "We shall not allow you to go on strike; we shall lock you out."

3340. (*Chairman.*) I think we may assume that very often the action of workmen is very unreasonable. Do you consider that because their action is unreasonable, therefore it should either be criminal or actionable?—No, I do not think the action of a workman is unreasonable if the workman is left alone; it is only when the workman is acting as the tool of a union that the demands become unreasonable.

3341. I do not think we have got much further with regard to *Quinn v. Leatham* as to what proceeding exactly it was that you considered to be an intolerable wrong. As I understand you, everything which the unions did after they had struck themselves with a view to prevent the employer keeping his employee was unlawful?—Yes, and an intolerable wrong, that is to say, it was a general attempt to ruin *Leatham*.

3342. Let me test those words. Is not every strike that ever existed an attempt to ruin the master if he does not give in?—That becomes the ultimate end.

3343. And in the case of every strike, is not the object of the employer to starve and ruin the men if they do not give in?—No, not at all. I have cases in my mind where employers are perfectly indifferent, and they say, "You can go if you choose; I can get other men in on Monday morning." They do not wish to ruin the men and they can get no satisfaction, beyond the mere sentimental one, if they happen to be of a brutal disposition, from ruining or starving anybody.

3344. (*Sir William Lewis.*) It is a question whether the one shall succeed or the other?—Yes.

3345. And the test of that is, who can endure the longest. In connection with a severe strike—not a strike which a master does not care anything about, but in any severe contest the issue depends upon who can last longest, the master from going into bankruptcy or the men from reaching starvation; is not that so?—Those are generally the conditions of a strike.

3346. Could that be so if the employer was free to employ other men? There is no need of ruining any of the workmen after they have worked out their contracts and ceased their connection with their employer. If the employer is not interfered with in obtaining other men there is no need of ruining any of the workmen and there is no need of the workmen ruining the employer?—Quite so; if there were free conditions of labour in this country there would be no such thing as ruin to anybody.

3347. (*Mr. Cohen.*) Have there ever been free conditions of labour in this country?—Not within modern times.

3348. And you think before trade unions existed there were free conditions of labour?—The conditions are free now in many industries.

3349. That is not an answer to my question?—Would you mind putting it again.

3350. Do you think before trade unions were founded and existed there were free conditions of labour?—We were not an industrial community then, in the sense that we are now.

3351. That is your answer, that we were not an industrial community?—Except in the matter of agriculture.

3352. When were Trade Unions first founded?—I am afraid my head is not sufficiently full of the points of Mr. Webb's excellent history to give you that information.

3353. You are the secretary of the Employers' Parliamentary Council?—Yes.

3354. What is that council?—A council consisting of the heads of the various employers' associations connected with the different industries of the country, existing purely for Parliamentary purposes.

3355. What purposes?—Watching legislation and doing anything that is necessary to promote employers' interests with regard to Bills passing through Parliament.

3356. Is it an association?—It is an association of associations.

3357. Are there any rules?—Yes.

3358. Written rules?—Yes, printed rules.

3359. Can you furnish them to us?—I can, with pleasure. (*The Rules were subsequently sent in.*)

3360. Now as to the Labour Protection Association, what is that?—That was a body called into existence during the engineers' strike for the purpose of testing the whole question of picketing. It was found in various parts of the country, in Sheffield, Manchester, London and elsewhere, that it was impossible to carry on the work with willing labour unless the willing labour was protected either by the local police or by a private police. In many cases the local police refused to act; they refused to do anything to prevent men being molested going to and from their work.

3361. Can you give us some instances where the police refused to give protection?—Not openly refused, but by negligence they had allowed a condition of things to come into existence which made the life of the non-union workmen quite impossible—intolerable.

3362. And that was the fault of the police?—That was the fault of the police, and owing to the desire of the watch committee not to bring themselves into bad odour with the Unions, in fact, if you will just allow me, I had better give you an example. In Sheffield, the whole of the large works in that part of the city known as Brightside—the works of Vickers, Cammells, John Brown and Firths—were kept going for the execution of Admiralty orders by the employment of non-union labour. When the non-union workmen first arrived in Sheffield they were met at the station, in fact they were intercepted at places like Chesterfield and Leicester on the Midland Railway *en route*, and at Sheffield they were met by a noisy mob of strikers and their women kind, and in many cases the men did not reach the works; in other cases some of the men during the evening after the works were closed were ill-used and knocked about, and there were several convictions obtained against the strikers in that connection. The police did not give the protection that was necessary; they just had one man on point duty at the different points along Brightside and took no exceptional means to put a stop to the trouble. I went to Sheffield to inquire into the facts of the case; and it was arranged that a deputation representing these large firms should wait upon the chief constable and request that more protection should be given, but he did not see that he could do anything in the matter; he pointed to the fact that there was a constable on duty, and that he could arrest any one that committed an assault and all the rest of it. It was pointed out that that was not enough, and the chief constable was told that unless the Sheffield police gave ample protection to these free workmen that were coming into the town every day, the employers themselves would import their own police to do what was necessary. The employers did import their own police, mostly men who had served in the A Division, and these men went to Sheffield and remained there on duty.

3363-4. What power had they?—Just the power enjoyed by the ordinary private policeman everywhere, power to escort men, and they acted entirely under the masters' orders, but they had no power to arrest except when they were sworn in as special constables, which was the case in Leeds with some of these particular policemen. They just protected the workmen, followed them about, and in cases of arrest they were there to witness the proceedings and to give evidence against the accused. The result of

all this was that the labour unions in Sheffield protested against the police of the city being employed for the protection of non-union workmen, and at their instance a special meeting of the city council was held, over which the Duke of Norfolk, who was then the mayor of the city, presided. The whole question was discussed, and a resolution was then passed by the city council that they fully recognised that these men when they entered the town had the right of protection that every citizen of Sheffield enjoyed at the hands of the police. The amendment that was moved at the instance of the labour union members of the council was defeated by a large majority and the action of the police in protecting these men was approved of. It is quite certain—and I am perfectly confident of this—that in many cases had it not been for the knowledge that the employers had at their command 1,000 or 1,500 men that they could mobilise in a few hours, and draft into any place, the local police would not have done what was necessary, and the influence of labour unionism on the watch committee would have been quite sufficient to have prevented due protection being given to the men.

3365. (*Sir William Lewis.*) And you do not think that is a singular instance?—I know it was general.

3366. (*Mr. Cohen.*) Let me ask you this: You consider, I suppose, that Trade Unions are nuisances, do you not?—Not when they keep within the bounds of reason.

3367. Do they ever do that?—Yes, I know of Unions that never under any circumstances would dream of resorting to these harsh measures with their employers; they are mostly unions in small industries who have never resorted to a strike.

3368. You think Trade Unions in small industries are more beneficial and more powerful for good than Trade Unions in large industries?—Not at all; I think that any organisation which has for its object the promotion of the social and moral welfare of its members is an organisation deserving of encouragement, but any organisation which resorts to methods to compel men to do that which they do not wish to do is an organisation which is opposed to the interests of the community. It is opposed to personal liberty and the very conditions which make social life comfortable and possible.

3369. Then is your view this:—Would you be satisfied if Trade Unions were prevented from procuring breaches of contract and were prevented from intimidating others?—I would be satisfied if, by committing breaches of contract and intimidation, you mean the tactics that have been pursued by the unions during recent years.

3370. I do not know, because people differ about the tactics; you take strong views, but we have had the evidence of Sir Andrew Noble and others who take different views about Trade Unions from which you seem to do. What I want to know is that there is a certain intimidation which you consider wrongful, do you not?—Yes.

3371. And you consider a breach of contract wrongful?—Yes.

3372. And you would like Trade Unions to be prevented from encouraging or procuring breaches of contract or encouraging intimidation?—Yes, or committing injury and wrong.

3373. So that the only question is as to what is wrongful intimidation and what is a wrongful act?—Yes.

3374. (*Sir William Lewis.*) Would not any intimidation be wrong?—Any intimidation that resulted in injury to anybody in the slightest degree would be wrong.

3375. (*Mr. Cohen.*) What do you mean by intimidation?—The threat of future consequences.

3376. What consequences?—Deprivation of work, unpleasantness among neighbours resulting from the fact of a man doing something that the union did not wish him to do.

3377. So that you think any threat of future annoyance, social annoyance, say, ought to be a criminal offence?—It ought to be a criminal offence.

3378. Do you think that if a strike is threatened, such a threat is an illegal threat?—No, the right to strike should be upheld.

3379. But a threat?—A threat, either real or implied, must exist.

Mr. Frederick Millar.

8 Dec. 1904.

Mr. Frederick Millar. 3380. You do not think a threat to strike is an illegal threat?—No.

8 Dec. 1904. 3381. (*Chairman.*) But it intimidates the master, does it not, if A says to B, "I shall strike and I shall leave your employment unless you agree to these new terms of employment"?—I suggest to you he has a perfect right to do that.

3382. Does not that intimidate the master? Does it not frighten him as to what will happen to his contracts?—It would not frighten me if I was a master.

3383. Would it not depend entirely upon how many persons gave you notice and what contracts you had to carry out?—It might.

3384. (*Mr. Cohen.*) I think you have said something which perhaps you have not carefully considered. Do you not know that in *Quinn v. Leatham* it was the threat that workmen would strike which induced Munce to cease to do any business with Leatham?—Yes, but Munce was not a party to the dispute; he was threatened with loss of business if he did not assist the union in ruining Leatham.

3385. So that you see a threat to strike may produce evil?—I do not think that the threat to strike is worse than the act of striking.

3386. Let us follow that for a moment; I do not think you are quite doing yourself justice, if I may say so. You admit that it is lawful to strike?—Yes.

3387. You are clear about that?—Quite.

3388. Is it also lawful to threaten to strike?—I think that would depend entirely upon the circumstances.

3389. What circumstances?—There might be a variety of circumstances.

3390. Why may you not threaten to strike if you may strike?—You could not strike without committing a breach of contract in certain cases.

3391. Assuming there is no breach of contract. I want simply to understand what your opinion is; it may be right or wrong; I only want to understand you. To strike is not illegal; you admit?—Yes.

3392. Then how can a threat to strike be illegal?—I did not suggest that it was illegal.

3393. Then you think a threat to strike is not illegal?—A threat must necessarily exist.

3394. You are not answering me. Would a threat to strike be illegal in your opinion?—I do not think so.

3395. (*Sir William Lewis.*) But a strike, accompanied by a threat to do something else to prevent other workmen, you would certainly regard as illegal?—Yes, a threat merely to cease work would not be illegal.

3396. Have you any other information you would like to give the Commission with respect to the interference with the working of non-unionists?—No, not in particular. I have had considerable experience in connection with strikes, and I have seen strikes conducted under conditions where there has been no breach of the peace, and I have seen strikes conducted where it has been necessary to have a large body of police to keep the strikers at bay and to prevent them molesting the men at work. Generally speaking, the strikers resort to all the methods at their disposal, as I said before, to gain their own ends.

3397. I am rather suggesting where men decline to work with non-unionists?—They have refused to work in the same shop or for the same employer when non-union workers were engaged.

3398. Have you any suggestion to make as to how they could be protected under such circumstances, either against the action of the unionists or the action of the union as a body?—I think that all the resources of the police should be used for the protection of those men.

3399. (*Chairman.*) Nobody objects to that, do they?—No.

3400. (*Sir William Lewis.*) Do you think that is practicable in every circumstance. Take a colliery; when the men come to the top of the pit and the unionists say, "We are not going down in the same cage as those non-unionists," it is not a question of policy; the collieries do not provide policemen to protect their workmen under

all circumstances?—I do not think the punishment of those men for that act would result in bringing about a better state of things; I do not see what could be done.

3401. You have no suggestion to make?—Where the industry cannot be carried on by one class of labour, where you are compelled to have non-unionists and unionists together and these men refuse to work in amity, I do not see that any of the forces of the law or police would alter their disposition towards each other.

3402. Then with respect to picketing, did I understand you aright in your replies to the Chairman that you would abolish picketing altogether?—I would repress it wholly, certainly—get rid of it altogether.

3403. In your experience can you give us any illustrations where peaceful persuasion has been followed without leading to threats and from threats to violence?—No, I have never had an instance where peaceful persuasion was not followed by threats of violence. The example which I will give you is a typical one. The Labour Protection Association a few years ago were asked to intervene in a tailors' strike at Limerick in Ireland. The employers came to London and engaged tailors here to go to Limerick to work, and these men were to be sent to Limerick in charge of the police of the Labour Protection Association. They were told to assemble at Euston Station on a certain evening to go by the Irish Mail to Dublin. I, out of mere curiosity, went up to the station to see these men off, anticipating no trouble or interference of any kind. When I got into the booking hall at Euston I saw that a disturbance was going on, and I discovered from inquiries of one of our policemen that the union had got to know the circumstances, and they had sent a large deputation to the station to peacefully persuade the tailors not to go to Limerick. The men who had been booked for Limerick paid no heed to what was said to them, and the union officials thereupon threatened to go over to Limerick with them and make it hot for them on the journey and when they got there. The officials at Euston, unfortunately, were unable to prevent these men travelling in the same carriage, and they were unable or unwilling to do anything to protect the men. There were only three or four of our policemen, and not by any means sufficient to give them ample protection, so that I had all the men taken away and sent to their homes, and we sent them by another route the next day. That kind of thing I have known to happen in almost every case.

3404. (*Mr. Cohen.*) You have said "one of our policemen"; what do you mean by that?—I mean the police of the Labour Protection Association; we have a large force of police at our disposal, which we can use at a few hours' notice to send anywhere for the purpose of putting down such conduct.

3405. (*Chairman.*) You call them policemen; is that correct?—They are men who have served either in the Metropolitan Police or in the Army.

3406. (*Sir William Lewis.*) Are they sworn as special constables?—Where necessary; that has been the case in some towns.

3407. (*Mr. Cohen.*) But they have no right to interfere?—They have the right to protect men going to and from their work, the same right that every citizen enjoys, that is all. These men happen to be big, strong, powerful fellows and their presence is quite sufficient to ensure the men getting about without discomfort.

3408. (*Sir William Lewis.*) You can hardly call them "police," but you might all them protectors?—They are policemen in the same sense as the police of a dock company or railway company are.

3409. (*Mr. Cohen.*) Your opponents would give them a different name?—Yes, I quite follow that.

3410. (*Sir William Lewis.*) Can you conceive any information that these people can require to obtain beyond what is common knowledge at the time of a strike?—None whatever; I do not think that there has been any strike within recent years where the full facts have not appeared from day to day in the reliable daily papers.

3411. Besides, once the contracts cease and the men are out there is no more connection between the men and their previous employer than there is with any other men that might be found about the neighbourhood or on the street?—Exactly.

3412. And they have no more right to have any information than any other men that never worked with that employer?—That is so.

3413. Whereas it appears to be suggested that these men have some particular right to carry on that industry in the future as they have in the past?—Yes, that they are permanent partners in the concern, which they are not.

3414. They have no more connection with it than any other men in the street when their contract ceases?—That is so.

3415. Still for the purpose of preventing the employer continuing his work they appear there, and under the guise of asking for information they prevent the employer resuming his operations with other workmen?—Yes, and their hands are often strengthened by strangers and loafers who never had any interest in the works; a mob assembles and assists them in intimidating the non-union men and the master.

3416. (Chairman.) There are two matters I want to put to you. First of all are there any printed rules of your Labour Protection Association?—Yes; I will send them in to the secretary with pleasure. (*The Rules were subsequently sent in.*) I may say that the Labour Protection Association at the present moment does not exist as an active body. It was called into existence as an emergency body, so to speak, and owing to the recent legal decisions it has had no occasion to do much; there have been no strikes, but it is in existence in the sense that it could be put into working order in a couple of hours.

3417. Are you satisfied, or is your Association satisfied, with the conduct of the police generally in the case of a strike?—Yes, where the police act and comply with the wishes of the employer who asks for protection.

3418. But you are satisfied generally that the police hold themselves impartially and are sufficiently energetic to maintain order in the case of a strike?—Yes, my experience is that they have shown no particular sympathy one way or the other and they have acted as police should do.

3419. Are you satisfied with the action of the magistrates in case of strikes?—Now, but certainly not a few years ago when it was almost impossible to get a conviction against these men.

3420. But you are satisfied now?—The state of things is completely changed; magistrates have become alive to the need for putting down this evil and they are acting accordingly.

3421. Do you think acts of violence should be punished less severely or more severely because they are done for the purposes of or in the course of a trade dispute?—I should simply treat them as acts of violence.

3422. I suppose acts are usually more severely punished, are they not, if they are likely to be repeated by other persons?—Yes, and if it is an act which is not the mere result of a fit of temper I think it ought to be regarded in a sterner light than when a man is acting under provocation.

3423. You know what a sympathetic strike is?—Yes.

3424. You know in *Quinn v. Leatham* there was a sympathetic strike or threat of a strike in Munce's premises?—Yes.

3425. It was not a strike, but it was a proceeding against Leatham?—Yes.

3426. Do you think that sympathetic strikes are lawful?—Quite unlawful; I have advised employers over and over again that the calling out of men who are not involved in the matter in dispute is unlawful.

3427. When you in case of a lock-out advise the employers, do you advise them that one employer is not allowed to lock-out his men in order to support another employer who has locked out his men or whose men are on strike?—I have never been asked to advise on that.

3428. What do you say on that point?—Do you mean in the case of a particular industry?

3429. Any industry?—Where the men employed by one firm connected with an industry went out on strike, and the other firms in the industry resolved to lock-out their men to support this particular man?

3430. Yes?—I have never known of a case of the kind unless a general principle is involved which affects the whole of the particular industry; that is to say if the workmen employed by A came out on strike at the instance of their union with a view to testing the feeling of the masters generally with regard to one of their demands, and with a view in the case of success in this particular instance of A making a similar demand upon B and C and all the rest of the employers engaged in the same industry, then if the masters in view of these circumstances said "we will lock out everybody employed by us who is a member of that union," I think that would be perfectly justifiable.

3431. (Sir William Lewis.) That is where a particular master is selected for the purpose of testing the question?—Yes.

3432. (Chairman.) Where it is thought there is one common interest for all?—Yes. Then I should say that the masters' action should not be regarded as unlawful.

3433. Applying that to the case of a sympathetic strike, and taking the instance of *Quinn v. Leatham*, do you not think that there was a common interest on the part of the union on the one hand towards Munce and on the other hand towards Leatham—the common interests of non-unionists not being employed in the trade?—No, I had a case brought before me—

3434. I must get an answer to that question: do you not think that the object of the sympathetic strike in *Quinn v. Leatham* was the same as the object of the original proceedings against Leatham?—No.

3435. Was there not only one purpose in both of them, namely to keep the trade to unionists to the exclusion of the non-unionists?—No, to punish Leatham for defying the union.

3436. That is the same thing in other words as what I said; the object was to exclude non-unionists from employment?—Yes, I do not think the case is identical with the one I mentioned.

3437. (Sir William Lewis.) Can you tell us from your own observation whether recent decisions have affected the question of the conduct of people in strikes, or not?—Universally the effect has been enormous, and where there has been a dispute I believe that the unions have exercised the whole of their efforts towards preventing a breach of the law as at present interpreted. It has had that effect upon them and the liability that they now have makes them more careful in the conduct of negotiations.

3438. (Mr. Cohen.) Do the employers take your opinion upon questions of law?—Oh, no, not at all.

3439. Supposing one servant or any person were to say to a master, "unless you get rid of your servant I will not have any dealings with you," would that be illegal in your opinion?—Yes, if I understand your question.

3440. If one person says to another man, "Unless you get rid of that servant of yours I will have no dealings with you?"—That is purely a private matter which cannot affect anybody.

3441. That would not be illegal, you think?—No; that is to say, if A refused to visit B while he employed a certain cook, I do not think that would be illegal. I would not say it was not illegal.

3442. You do not think the servant could bring an action and say, "You are interfering; here am I, the servant of A B, willing to remain in his service, and he willing to retain me in his service, and you come in and say to my master, 'Unless you, the master, dismiss your servant, I shall have no dealings at all with you.' Is not that an interference?—Yes, and I should hardly think that the master would be justified in dismissing the servant without proper compensation if he himself had no fault to find with the servant, and if he for certain reasons thought fit to fall in with the wishes of his friend, and he dismissed the servant illegally.

3443. (Sir William Lewis.) But supposing he gave proper notice?—If he gave proper notice he is not called upon to give any reason for dismissing the servant.

3444. Nor is the servant obliged to give a reason if he wants to terminate his service?—No.

Mr. Frederick
Millar.
8 Dec. 1904.

Mr. Frederick
Millar.
8 Dec. 1904.

3445. (*Mr. Cohen.*) Do you not think in that case there is an interference with the servant? The person is trying to deprive the servant of his right to be employed?—No, I do not agree at all; you do not deprive the servant of the right to be employed, but you say the servant shall not be employed in a certain house.

3446. Employed by a particular person?—Yes, but you do not deprive him of his right to obtain employment. That is what you do with the non-union man; he is hounded from pillar to post, and from town to town, and employment in his own name, in his own trade, is impossible.

3447. (*Sir William Lewis.*) And that is by no means singular?—By no means; on the River Thames there are men who have things thrown at their heads now for what they did ten years ago in connection with a strike, for having worked, and it goes on for ever.

3448. (*Mr. Cohen.*) That is an illegal act; you do not help us by giving us instances in which there were riots, or assaults, or illegal threats?—All those ought to be prevented by the police.

3449. (*Sir William Lewis.*) But there are means of preventing people from working which are adopted without actual riots or doing anything by which they can be proceeded against?—If B requested A to dismiss C, A's cook, and B made it a condition that A should pursue this cook for the remainder of her days and prevent her getting another situation, then, undoubtedly, the act would be illegal, and monstrous. In the building trade, for instance, it is possible within a certain county to prevent a given man from obtaining employment anywhere in his own name, and he can only get it by calling himself by some other name. He is known everywhere, and there is a notice sent round, "If so-and-so comes to so-and-so he must not be allowed to work; he is a blackleg and has been doing this, that, and the other, which we object to."

3450. (*Mr. Cohen.*) That is because almost all those men belong to the trade union?—Or they have sufficient influence to get their own way in the trade.

3451. If workmen think the conduct of the trade unions reprehensible why do they not form a union of themselves? How do you account for the fact that almost all the energetic and able workmen do belong to these trade unions?—I deny that.

3452. The able men?—Undoubtedly, either in the skilled or the unskilled trades; you have, true, one large industry, the textile industry, in which everybody employed I think is a member of a union, owing wholly to the fact of, as I think, an unfortunate compact made between the union and the masters' association years ago that no non-union labour should be employed, but in every other industry the majority of men are non-union men.

3453. (*Mr. Sidney Webb.*) In every other industry?—I would not say every other, that is perhaps rather too wide a statement, but in agriculture and in railway employment, in shipping, in the engineering trades.

3454. In shipping?—There is no union in the shipping trade.

3455. In shipbuilding?—That is different.

3456. Have you ever been on Tyneside?—Yes, not for the purpose of making inquiries.

3457. Do you know, for instance, the boilermakers?—Yes, I know them by reputation.

3458. You know that is a very large trade?—That is a very powerful body.

3459. Are you at all aware of the proportion of non-unionists there are in the boiler-making works?—I cannot say.

3460. At any rate you do not suggest that there is a majority of non-unionists there?—No, I do not; my statement was a purely general one, that taking the skilled and non-skilled labour of the country the proportion of unionists to non-unionists was simply one to ten.

3461. But you made another statement that in the majority of trades the majority of the men were not unionists?—That is so in all but a few.

3462. In all but a few trades?—I do not know but I should say in the mining industry the majority of the men are non-unionists, certainly in the agricultural industry and certainly in the railway world.

3463. You pass at once from the skilled to the unskilled?—I take them all.

3464. You keep repeating certain trades. Have you ever been in Nottingham?—Yes.

3465. Are you aware of the position of the lacemakers there?—They are all in the union there.

3466. But you did not say that before?—I mentioned the textile industry.

3467. You count the lacemaking as a textile trade?—Yes.

3468. Have you ever been in Lancashire, in Bolton and Oldham?—Yes.

3469. Have you any idea as to the proportion of the population there that is in the union?—I said all the textile trade.

3470. But go from the textile trade to the engineering trades, are you aware of the proportion there?—I should not be disposed to admit the majority of the men employed in the engineering trade are unionists.

3471. In Bolton?—In particular districts they may be.

3472. You have not made any general investigation have you?—Not in particular instances.

3473. (*Sir William Lewis.*) But I take your first answer as applicable to the whole kingdom although it may not be to special districts?—Taking railway companies, the North Eastern may have a majority of workmen who are members of the Amalgamated Society of Railway Servants, but the Great Western, the Midland and others have a vast majority of men who are not; and so it is in other industries. There are certain trades that employ none but unionist labour owing to some arrangement made between the masters and the men in the remote past.

3474. (*Chairman.*) Have you anything else you wish to say?—Nothing.

Mr. JAMES RUDD called and examined.

Mr. James
Rudd.

3475. (*Chairman.*) You are a worker in the cabinet making trade?—Yes.

3476. You have sent to our Secretary a *précis* of the evidence which you wish to give to the Commission?—Yes.

3477. Do you give your permission for that to be incorporated in the proceedings of this Commission?—Certainly. It is as follows:—

I wish to state that any powers given to trades unions by the Bills (*Vide Appendices, pp. 7 and 8*), you have sent must act prejudicially to the freedom of contract which all individuals, whether workmen or otherwise, can, or ought to be able to claim. For instance, I am now quoting from a practical example which came under my notice thirty years ago. I was then working in Exeter, in a cabinet manufactory. Some time previous a cabinet maker's society was formed, which is still in existence. They formed a branch in

Exeter, and in following out their programme naturally wished to make as many converts as possible amongst non-unionists. So far they were within their province, but the shady side of the affair soon put in an appearance. The society meetings were held at a public-house. (This, I may mention in parenthesis, is enough to spoil any business organisation, and ought to be prevented by law, as the questions they discuss require calm reasoning, and not discussions heated by liquor; in this I am also quoting from experience). Excuse the digression, but it is necessary to enforce my argument. Amongst my fellow workmen was an aged chair maker, the only one employed, so his work did not interfere with any of the others, but the fiat was issued by the society members that he must join. He demurred, saying that he was content as he was placed and that, at his age, he should have a difficulty in obtaining employment elsewhere, if thrown out of work. That did not satisfy his tormentors

who commenced a system of annoyance which was continued the rest of the time they were in the shop. The poor fellow is now dead, and his principal tormentor is in Exeter workhouse, if alive. If the trades unions like to set up a standard for their men for certain classes of work and remuneration, they are obviously within their right, but when they proceed to force or annoy others to fall into line with them they are just as obviously wrong. In one or two of the Bills you have sent, stress is laid upon the peaceful conduct of trades disputes. This certainly looks as if the millennium was not far off. But I fancy I see the trade unionists with their tongues in their cheeks when they were writing it. I have written my first experience of trade unions thirty years ago. I will now bring it more up-to-date. More than six years ago I answered an advertisement and obtained work in a firm in the Midlands. I worked there more than two years, giving and obtaining satisfaction from my employers. Now it might be supposed that an aged workman (I am now sixty-three) would be allowed to go his own road without interference from a society. But such was not the case. I was waylaid one dinner time and requested to join the society. I must state that I was too old to be admitted as a full member, so it meant that I must join as a partial benefit member, which meant no benefit at all, except in case of a strike, so that it would be simply a blackmail for the right of earning my living. I declined to join. A deputation then waited on the foreman and manager to complain that I was not a society hand. I was called on the carpet and being told it would make no difference to me, for quietness sake, I consented to join. On attending their club-room at a public-house, I was asked as to the remuneration I was now getting. I replied that I did not consider it was any of their business, and that if I conformed to their rules after I became a member I thought it was all they could require of me; besides I had been instructed by the manager not to satisfy them on that point. I was then told that my case had been discussed and would be referred to the Federated Building Society, with the result that in about three weeks the firm with whom I was working was informed that unless I was discharged, all the society men would be called out. I was accordingly discharged just four years ago at three hours' notice and since then have not succeeded in obtaining any but the most desultory employment, in fact, should have been obliged to obtain parochial relief, if I had not been placed in exceptionally favourable circumstances outside my trade. In giving this evidence, I disclaim any collusion with employers from whom I have had no communication, and I am almost too old to trouble about the effect personally. But I wish to draw attention to the moral I wish to convey, which is, that the trades unions should have no more powers conferred upon them than they already enjoy, as it is very clear with them, as with certain religious enthusiasts, that theirs is a doctrine of "Turn or Burn." Their peaceful persuasion has too much of the mailed fist about it to be agreeable. I have served a full apprenticeship to my trade, gained prizes at schools of art and science classes, and obtained an Oxford University prize, only to be stranded in my old age by the brotherly love and Christian charity of trades unionists. I might mention that the manager when dismissing me (with many regrets), assured me that the society would prevent me from getting any other employment. So I am forced to the conclusion that,

like the wicked, their tender mercies are cruel. And they seem to have succeeded in their desires. A copy of the Conspiracy Act dealing with the interference with other men's tools, and any Acts dealing with the summary treatment of illegal trades union practices, should be compulsorily fixed in all factories and workshops, so that a non-unionist might know how to proceed, as although the non-unionists are numerically much stronger than trades unionists, they are more at the unionists' mercy in consequence of their being isolated, in contradistinction to the elaborate organisation and federation of trades unionists. I am now within two years of completing fifty years of workshop life, and shall not consider I have lived in vain if I raise my voice effectually to protect my fellow non-unionists against the arbitrary and tyrannical conduct of the trades unionists.

Mr. James
Rudd.
8 Dec. 1904.

3478. I understand you have not been a member of a union?—At no time.

3479. You have been an employer of labour?—No, I have only been a workman, but still I have never been called upon until latterly to join the union at all.

3480. But you have taken contracts?—I have taken work and I have got work at home now.

3481. Do you not take contracts and employ workmen?—No; I have only been a simple workman during a great portion of my time.

3482. You have never formally belonged to the union, but when you went to work for a firm in the Midlands you were asked to join the trade union?—Yes.

3483. Did you consent to join?—I declined in the first place and subsequently I offered to join.

3484. Then as I understand they asked you what wages you were receiving?—Yes.

3485. You declined to tell them that?—Yes.

3486. And, therefore, practically they struck against you?—Yes, they did.

3487. And they have done their best to prevent your getting employment?—Yes; I have every reason to think so.

3488. In what way have they tried to prevent your getting employment?—I have got no direct evidence on that score, but when I answer advertisements and so on, I get no answers, and I assume that there are trade unionists in the shop, that they refer to them, and they know me in the trade, but I have no direct evidence on that point. I was told by the manager of the shop where I was working when I left that they would prevent my getting employment.

3489. (Sir William Lewis.) He predicted it?—Yes.

3490. He had no connection with the union of any kind?—No, he was the manager there; he was not in the union.

3491. Is that your only ground for stating that it was due to the action of the union that you failed to get employment?—It was owing to the action of the union that I was cleared out of that shop.

3492. But subsequently?—Subsequently I have got no direct evidence.

3493. (Chairman.) At all events you feel very strongly indeed that all workmen, whether unionists or non-unionists, should not be illegally interfered with?—Certainly.

Mr. JOHN YOUNG called and Examined.

3494. (Chairman.) You have sent in a *précis* of the evidence you wish to give?—Yes.

3495. We propose to insert it in our Minutes, if you have no objection?—Not the slightest; I intended that to be evidence. The Statement is as follows:

With regard to the proposed legislation as to trade unions, as the Bills submitted seem chiefly to affect what is known as "picketing," I may state that it is a practice against which I always have, and do now, set my face. Firstly, because I believe it to be prejudicial to the best interests of trade unionism itself, and secondly, because it is necessarily an undue interference with the liberty of the subject.

If men of judicial minds and "peacefully persuasive" powers could be selected for picketing, then there might not be so much to say against it, but under trade unionism

this is impossible, as every man in the union has to take his turn on picket duty during a dispute, and as, unfortunately, the very great majority of men are not endowed with the qualities I have mentioned, and are therefore unfit for the duty, picketing as a system of "peacefully persuading" has been, and must continue to be, a melancholy failure, often resulting in intimidation and coercion, thereby causing active hostility in the intimidated, resulting in the organisation known as Free Labour, and therefore prejudicial to trade unionism.

Even in its mildest form it is an undue interference with the liberty of the subject. Every man has a right to think for himself, and act for himself in what concerns himself. It would, therefore, be a piece of presumption on my part to waylay another, without introduction or notice, and attempt to "peacefully persuade" him that he is

Mr. John
Young.
8 Dec. 1904.

Mr. John
Young.
8 Dec. 1904.

altogether wrong because he does not think and act as I do. I should resent it if the other fellow did the like to me, and the same liberty I claim for myself, I am ready to concede to others. Therefore, for these reasons, I would make picketing, under any shape or form, absolutely illegal, and would make trade unions responsible through their funds for any infringement of the law, as also for any breaking of contracts. Of course, I would have the law to cut both ways, giving trade unionism the same protection from intimidation and contract breaking as would be afforded to employers or outsiders.

I may say I would like to see trade union funds protected from the rapacity of what is at present a majority, by which the minority suffers great injustice, and I may say tyranny, by the diversion of trade union funds from strictly trade union objects.

This is brought about by what is called Parliamentary representation, where the funds are used for supporting the member who represents the political views of the majority, but to which the minority, holding diametrically opposite political views, have to pay, thereby being unjustly and tyrannically compelled, in part, to furnish the means of support for one who misrepresents them, and to whose opinions and actions in Parliament they probably have a thorough horror and loathing, and this without any means of redress. This should be rectified by making it illegal to use trade union money for other than trade and benevolent purposes.

The right of a trades union in its collective capacity to strike, either for a rise in wages, reduction of hours, or any other trade privilege, I would insist on being legally secured, provided it acted in accordance with the lawful agreements already in existence between itself and the employers; just as I would insist on the same legal right to the employers to lock out their men if they refused to accept either a reduction of wages, modification of hours, or the suppression of any trade privilege of which they were then in possession, and on exactly the same conditions.

But whatever modifications may be introduced by legislation to improve existing conditions, the question of Labour v. Capital we will always have with us. The best, and indeed the only way, in my opinion, for anything like a final solution of the matter would be to legally erect a judicial tribunal, similar to an ordinary court of law, before which either or both sides would be compelled to submit the questions in dispute, and be equally compelled to abide by the decision, as litigants are in any other court of law. I think this covers the whole ground, so far as I can see, of the questions I have been asked, and the proposed legislation enclosed. In endeavouring to be concise I may not have gone so far in illustration as the Commission may have desired, but if any further or more particular information is required, I shall be pleased to give it either in writing or before the Commission, the latter preferred.

3496. You have spent your working time at Newcastle-on-Tyne?—Yes, and other places as well.

3497. You were once President of the Newcastle and District Operative Plasterers' Association?—Yes.

3498. Are you a member of that Association now?—I am not; I ceased working because I got too old for it in 1900, and then as soon as I possibly could I cut my connection with the society because it was no longer necessary for me to belong to it, seeing I was not working at my trade.

3499. Have you had any quarrel or difference with them?—Oh, no; there is always sure to be a certain amount of friction between people, and I had some little friction with them, but during the time I was president I had the vast majority of the men at my back. During that time we had a twelve months' strike and lock-out, although it seems a peculiar thing that these should exist at the same time. We had a dispute with the bricklayers who wanted to claim as a right the doing of certain things in connection with the laying of cement.

3500. (Sir William Lewis.) The dispute was not with the employers?—Not to begin with. The bricklayers in the North claimed the right to lay cement, that is to say, an equal right with the plasterers, and we declared that they had no right whatever, and that the business of a bricklayer was to lay bricks. The firm with which I served my time, W. B. Wilkinson and Company of Newcastle-on-

Tyne, were the originators of modern concrete. The bricklayers gave as their reason for wishing to lay the cement that when the weather was too bad to work outside they could go and work inside at the laying of the cement. That was a good reason from the bricklayers' point of view and the employers backed them up in that because they did not want their bricklayers to be laid off, but we, the plasterers, seeing that it was a portion of our work, objected because they would have taken that and then gradually some other portions of the work and left us a mere fragment. We made, therefore, a tremendous stand against this, and it lasted for twelve months. Eventually the employers agreed to meet us; it was the architects who really commenced it, but two employers, two bricklayers and two plasterers (one of the plasterers being an official of the union and the other being myself as president) met round a table and night after night we discussed these matters. I intended to have brought the paper with me, but I could not lay my hand on it at the last moment. The first paragraph, however, said: "The right to lay concrete belongs to the trade of the plasterer," and then it went on to say in the second paragraph that: "For the convenience of employers certain portions such as putting on pot tops or repairing shall be at the discretion of the employer to be given to either a bricklayer or a plasterer," and that has been in existence for five years.

3501. Did it take you twelve months to arrive at that result?—Twelve months.

3502. Did you not commence to meet until the end of the twelve months?—We had sundry meetings both with the bricklayers themselves and with other trade unions, but these were futile, because I as president of our union put my foot down that we would not give away the right of laying the concrete, and then the architects came in and eventually conceded, in the first paragraph which I have mentioned, that it was our right to lay this concrete.

3503. (Chairman.) It was a very unfortunate thing for the employers, was it not, that there was this quarrel?—Yes, but the employers themselves took part with the bricklayers; they locked us out.

3504. They suffered from this quarrel between the bricklayers and the plasterers?—Yes.

3505. (Sir William Lewis.) Did the bricklayers work in the meantime?—The bricklayers were locked out also; we were all locked out. There was a general lock out.

3506. (Chairman.) Do you think that the employer had any legal grievance against you for quarrelling with the bricklayers or against you and the bricklayers for quarrelling together?—Not a legal grievance.

3507. He suffered?—He suffered, but he had no legal grievance.

3508. He had not a right of action against you?—No.

3509. Still less could he prosecute you in the criminal court?—That is so, because he gave us notice to quit work and he was using his legal rights.

3510. Supposing he had not given you notice?—Then if he had not given notice we would have suffered illegally, but the employer has only an hour's notice to give to any of us and we to him.

3511. (Sir William Lewis.) You were working subject to an hour's notice on either side?—Yes.

3512. (Chairman.) The point to which I wish to direct your attention is this: Do you consider that two sets of workmen may quarrel together as to what work shall be done by each set to the loss of their employer and that the employer should have no legal remedy against them?—Yes, I do think so, just in the same way that the employer has a legal right to quarrel with us if he is not satisfied with anything we do.

3513. (Sir William Lewis.) It is not a question of satisfaction: does it not occur to you that it is an interference with the manner in which the employer carries on his operations?—Yes.

3514. There was no dispute as between the employer and you as to any payment but only as to the allocation of different portions of the work necessary in a building?—That is so.

3515. And the two trades could not agree as to the line of demarcation and you stopped the whole of these operations for twelve months?—We did.

3516. (*Chairman.*) Nevertheless you think that the employer has no right of action against either you or the bricklayers?—No, because everything was legal. The employers exercised their legal right of action by locking us both out. It certainly disturbed the whole of the building trade in that district and a most important one too.

3517. (*Sir William Lewis.*) You say that he locked you out, but if the two trades would not work together you locked yourselves out; it was you who declined to work was it not?—But you must understand that the conditions that had existed for so many years were being encroached upon, and they were what might be called a common custom.

3518. By whom were they encroached upon?—By the bricklayers.

3519. Owing to the fact of you and the bricklayers failing to agree as to the line of demarcation between your respective employments, the operations were suspended for twelve months?—Yes.

3520. It was not the doing of the employer at all?—No, except that the employers were wrong in this sense, that the bricklayers were claiming to do a thing that they had no right to do and the employers, believing that it was to their interest to be able to set the bricklayers on to do certain work at certain times independently of the plasterers, sided with the bricklayers, and they wanted to enable the bricklayers from time to time, in bad weather say, to work at the laying of cement. There is no doubt that it was to their interest, but it was vastly against the interest of the plasterers that they should permit that. This was a matter that had been going on for a very long time; my earliest recollection of it is as an apprentice, and it went on from about 1862 till about 1900.

3521. (*Chairman.*) Should I shock you if I were to say that nobody whatever had any right in this matter, neither the employer to say who should do the work nor the bricklayers, nor the plasterers, but that each of them had an interest as to how the thing should be done, and that each of them had a perfect right to uphold that interest—the master by refusing to employ the men except they acceded to his terms; the bricklayers by refusing employment if they were not allowed to do the work, and so had the plasterers, but they had no legal rights any one against the other in the matter?—Well, there is a written law and an unwritten law, and under the unwritten law we had legal rights, that is to say, use and custom.

3522. Plasterer's law?—The plasterers had invented this material and they had laid it for so many years; it is not a job that takes a man a very long time to learn how to do so that the bricklayers from time to time encroaching upon us did this work; they gradually went on from doing little matters in concrete until at last they wanted to do the whole lot, that is to say, they wanted to claim to have an equal right with us, and that we disputed.

3523. (*Mr. Cohen.*) The consequence was that all parties lost?—Oh, no; we won.

3524. But you lost by this strike?—Yes, we lost by the twelve months' strike and lock-out.

3525. Although there was damage to all parties, you think no legal right was infringed?—Yes, I say there was a legal right infringed. This was unwritten law. But now, gentlemen, I may say that having seen the evils resulting from strikes and lock-outs, and also, in some notorious cases, having seen the futility of voluntary arbitration, where one of the parties refuses to submit to the arbitrator's award, I have come to the conclusion that the only way to solve the problem would be, as I say in my *précis*, "to legally erect a judicial tribunal similar to an ordinary court of law, before which either or both sides would be compelled to submit the questions in dispute, and be equally compelled to abide by the decision, as litigants are in any other court of law." There would, undoubtedly, be great opposition to such a project; but it would, in my opinion, attain greater perfection—humanly speaking—in averting the evils which the strife between labour and capital ever brings in its train, than any system which has hitherto been tried.

3526. (*Chairman.*) Do I understand from you that you have had no quarrel with unionists or unionism?—Not from that time. That was the one great question in dis-

pute, and I took up the position I have indicated, and my men kept me in that position by electing me as their President. There may have been an odd man here and there who was suffering from this strike, who objected because we only paid them 15s. a week, and it was possible for them to earn something like £2.

3527. (*Sir William Lewis.*) It was the unions really that were fighting it?—Undoubtedly.

3528. The two unions were fighting each other?—Yes, the three unions; the employers have a union too.

3529. (*Chairman.*) I may take it, may I not, that any observations which you make on the subject of trade union law are not prompted in any way by feelings of resentment towards trade unions or disbelief in the principle of unionism?—Not a bit; I think you will have gathered from what I have said up to now that I believe in the principle of trade unionism, but now I may tell you that there are many methods adopted by so-called trade unionists that I do not approve of. I think I have pointed out to you that the subject of picketing is a thing I have always been down upon.

3530. Give us your views upon that point, if you please?—I have seen the detriment to Trade Unionism through this picketing. In the third paragraph of my *précis* I say: "Even in its mildest form it is an undue interference with the liberty of the subject." I had better read the second paragraph: "If men of judicial minds and 'peacefully persuasive' powers could be selected for picketing, then there might not be so much to say against it, but under Trade Unionism this is impossible, as every man in the union has to take his turn on picket duty during a dispute and as, unfortunately, the very great majority of men are not endowed with the qualities I have mentioned, and are therefore unfit for the duty, picketing as a system of 'peacefully persuading' has been, and must continue to be, a melancholy failure, often resulting in intimidation and coercion, thereby causing" (and this is my great point) "active hostility in the intimidated, resulting in the organisation known as free labour, and therefore prejudicial to Trade Unionism."

3531. And you think that watching and besetting a house or picketing for the purpose of peaceful persuasion ought not to be allowed?—All round it ought not to be allowed.

3532. In fact, picketing for any purpose?—For any purpose whatever. I gathered these two words—"peaceful persuasion"—from the Acts of Parliament you sent to me. Well, you know it is a farce.

3533. (*Sir William Lewis.*) You laugh at that?—I do laugh at it from my experience.

3534. I entirely agree with you and you must not think I am objecting?—It is awfully comic to suggest that the general body of picketers are going to use peaceful persuasion. I know they are not.

3535. (*Chairman.*) And you say in the next paragraph: "For these reasons I would make picketing under any shape or form absolutely illegal": that is your view?—That is my view.

3536. Now for the other topic; you go on to say that you "would make Trade Unions responsible through their funds for any infringement of the law as also for any breaking of contracts"?—Undoubtedly.

3537. That is the law now, is it not?—That is the law now.

3538. And you wish that law to be maintained? That is the law, but Trade Unions themselves object to that law, do they not?—I say that if I individually broke my contract with my employer he would have the right to prosecute me, and if I collectively break it he has also the same right to prosecute me.

3539. (*Sir William Lewis.*) Or if the employer broke his contract with you?—Yes, I would make it out both ways. You must understand that at one time if a workman broke his contract with his employer the workman could be put in prison, but if the employer broke his contract with the workman he could only be fined. Well, there was a law made to alter that and the employer and workman were put on exactly the same footing, both having to suffer civil disabilities.

Mr. John Young.
8 Dec. 1904.

Mr. John
Young.

8 Dec. 1904.

3540. Under similar circumstances?—Yes, and, as I say, I put employer and workman on exactly the same footing.

3541. (*Chairman.*) Have you anything to tell us as to the internal management of Trade Unions?—Yes. I think I can mention that although the laws of Trade Unionism may be all right, that is to say, the written law, that is put before each man when he joins and when he makes a solemn promise to obey those laws, at the same time, from my experience I know there are what they call resolutions passed at hole-and-corner meetings from time to time, and I have seen men brought up and fined for breaking those resolutions of which they themselves knew nothing at all. On Wednesday nights there are a sort of hugger-mugger hole-and-corner meetings arranged, and on one Wednesday night one resolution is passed, and next Wednesday night another one, those two resolutions being exactly opposed to each other, so that it does not matter what a man does, he is fined for doing this, or not doing that.

3542. (*Sir William Lewis.*) Is that for the purpose of obtaining fines for increasing the funds?—I am not going to say that; it is for the sake of gratifying the little hugger-mugger fellows that meet on the Wednesday night.

3543. (*Chairman.*) There is a certain amount of petty tyranny that goes on?—That is it, and that is what I fought against myself.

3544. Do you consider that the funds in Trade Unions are properly administered?—Before I go to that would you let me just say what I have always endeavoured to instruct my men in, and I am speaking now of my own Trade Union, and that is never to take any notice whatever of those hugger-mugger resolutions that are there, but stick to their own written rules that are put into the hands of every man when he joins the trade society, and if they charge him with anything outside those rules to resist it. Now I do not know, but I am told that legally they can enforce those fines and bring a man under disabilities if he does not pay a fine for breaking a law he does not know anything about.

3545. (*Sir William Lewis.*) Could they not be turned out of the union for declining to obey these resolutions?—Yes. Well, I will not say turned out, but if the money they have paid at a certain time does not reach the amount of money that they ought to have paid they are under certain penalties; that is to say, if a strike came on they would not get their 15s. a week, and if a death occurred they would not get the money due then.

3546. (*Mr. Cohen.*) I think they might be expelled?—They are not expelled.

3547. They can be expelled under certain circumstances, can they not?—Yes.

3548. What are those?—They can be expelled after they have a certain monetary deficiency, and those fines that I maintain are illegal make up that monetary deficiency sometimes; that is to say, if a man gets into arrears he has no right to be fined at all, because he has not broken any law that was brought to his notice.

3549. (*Sir William Lewis.*) Under what circumstances can a man withdraw from the union?—Supposing you are dissatisfied with one of these resolutions?—Of course I can throw the whole thing over at once.

3550. You can give some notice?—Yes, but of course I lose all my benefits; all the money I have paid in, of course, lost.

3551. And that is the reason you do not take advantage of your power to withdraw, because you would lose so much?—Quite so, that is it; that is what restrains many men who are in what I call the friendly society benefits from leaving the union. In my Trade Union there were two classes of men, and if you have got a chronic disease, or if you are a certain age when you join, you are put into one class; perhaps you lapse, and then you join again, and if you are fifty years of age you join what is called the second class, and that is only for trade benefit; that is, you will get your 15s. a week strike pay. In the other class there is sick benefit and death benefit either for your wife or child, and it is that friendly society section of trade Unionism that keeps so many men in it and makes them submit to so much

of that hole-and-corner tyranny that I have described. I would like to see a test case tried in which a man is compelled to pay for opposing a rule that has never been drawn to his notice.

3552. (*Chairman.*) Have you any information to give us as to the diversion of the funds from their proper objects?—Yes. That is for Parliamentary purposes?

3553. For any purposes outside the proper purposes of the union?—I do not know of any except that sometimes they will vote a certain sum to some fellow who has done something wonderful, or what they think is wonderful; I never had a penny myself in that way, but that is given out of what is called the local fund, perhaps £5 or £10 instead of having a voluntary subscription for him. That is one way of diverting the funds from their proper purposes.

3554. (*Sir William Lewis.*) What is the voting power? Has everyone equal power of voting?—It is the majority at what is called a summoned meeting; there is the ordinary meeting every Wednesday night, and then there is at least a summoned meeting every quarter, and there may be a summoned meeting from time to time for any very important purpose. What I object to is that the laws that are made are very often made at these Wednesday night meetings when there is comparatively nobody there. I also object to Trade Union funds being used for Parliamentary purposes.

3555. (*Chairman.*) Would you object to a law requiring the trade union funds to be audited?—No, I would approve of that, and, as far as my particular union is concerned, they are all audited, only it seems to me such a farce that it is members of the union who are sent to audit them.

3556. Then they are not properly audited?—I maintain they are not. If a man outside of my trade were to go and do something connected with it they would call him a blackleg, and I maintain that we, by going past legally accredited auditors, are blacklegs, because it seems such a farce for a man to audit his own accounts. I do not know whether you agree with me, but that is my opinion. And, again, it is ridiculous for a man to say that he does not believe in infringing upon other people's work, and then he goes and takes the job out of the hands of a proper actuary.

3557. (*Sir William Lewis.*) It is a question of the Plasterers v. the Actuaries?—Yes, I tried time after time to get our accounts audited by proper auditors, because I maintained it would cost less money to start with and they would be properly done as well.

3558. (*Chairman.*) I see that you hold that trade unions should be responsible through their funds for any infringement of the law, as also for any breaking of contracts?—Yes.

3559. Therefore you desire to see the Taff Vale case maintained?—Undoubtedly, because they broke the contract between themselves and their employers. If they had worked out their contracts that would have been a different matter—you are acting legally then, but I maintain that if you do anything illegal you must be made to suffer the penalty whether you are a master or a workman.

3560. Still you hold the opposite ground that if you do not do anything illegal you should not be liable for any action or prosecution?—Exactly; if I give in my proper notice that I want to leave my employer, the contract between him and me is that I should give him an hour's notice, or that he should give me an hour's notice, and there is an end of the matter.

3561. (*Sir William Lewis.*) Does that apply all through the Newcastle building operations—only an hour?—Only an hour, but I want to tell you this: in our collective capacity, if we want to break through any of the rules that have been drawn up between ourselves and our employers, we must give from six to twelve months' notice.

3562. (*Chairman.*) To whom?—To the employer, or the employer to us.

3563. (*Sir William Lewis.*) But that is a question of rules and the other is a question of wages?—Of law; if an employer wants to reduce my wages one penny an hour he must give me the agreed notice.

3584. How much ?—Six months.

3585. (*Mr. Cohen.*) Let me clear that up. There are rules made which are signed by the employers and by the trade union of workmen ?—Yes.

3586. Those are printed rules ?—Yes; the employers and unions meet together through delegates and draw up these rules.

3587. These rules regulate the mode in which the work is to be carried on and the terms on which it is to be carried on ?—Yes.

3588. And these rules cannot be altered without giving six or twelve months' notice ?—That is so.

3589. I daresay you know that those rules cannot be enforced in any court of law ?—I cannot tell you that I have so much legal knowledge as that.

3570. You have not considered that question ?—No.

3571. But you consider that they ought to be capable of enforcing them ?—Yes, I do. I consider that all the arrangements between employers and workmen should be made—

3572. Legally binding ?—Legally binding, undoubtedly.

3573. (*Sir William Lewis.*) As to the question of the hour's notice, is that only that an individual workman who wishes to cease work can do so by giving an hour's notice ?—Yes.

3574. And that puts an end to the contract ?—Yes; but he could not give notice to say that he was only going to work eight hours a day instead of nine, or that he wanted a penny an hour more.

3575. In the same way if any employer wanted to dismiss a man he could say at 12 o'clock in the day, "You will cease work at one," and the whole contract is finished, you can claim your money and there is no other connection between you ?—Yes, and if the employer does not give the workman an hour's notice, or if the workman does not give the employer an hour's notice, they forfeit 10d. on either side. If the employer does not give the hour's notice he gives the workman 10d., or if the workman fails to give the hour's notice he has to give the employer 10d., and that has been very honourably carried out. For instance, in a case where a man has been a bird of passage and has danced off to some other place, we have paid the 10d. to an employer out of the local fund.

3576. (*Mr. Cohen.*) These rules are made between the employer and the trade union of workmen ?—Yes.

3577. (*Sir William Lewis.*) Representative employers and representative workmen ?—Yes.

3578. (*Mr. Sidney Webb.*) Those working rules are made by the Employers' Association meeting the local workmen's trade union ?—Yes, that is so.

3579. (*Mr. Cohen.*) Do those rules, on the whole, work well ?—Yes, on the whole very well, we have had no dispute since that cement question.

3580. Could those rules be made or be really enforced unless they were trade unions ?—Do you mean enforced on an employer who did not belong to the Masters' Association or upon a workman who did not belong to the Workmen's Association ?

3581. No, I will make my meaning quite clear. As you have explained to us, trade unions of workmen have a very great deal of power over their members; they can fine the members and so on ?—Yes.

3582. If there were no trade unions how could any binding arrangement, any effectual arrangement and agreement, be made between the employer and workmen ?—It could not be.

3583. (*Sir William Lewis.*) Have you carefully considered that ?—I have carefully considered that. I maintain that you cannot make a binding agreement between two individuals, because you have such a disorganization; that is to say if each employer were to make a separate agreement with each man he employed it would mean a lot of disorganisation, and as employers themselves maintain (I have heard large employers say so) it is better for them to work with the trade union collectively than to treat with each man separately.

3584. Have you never known an instance—I do not know whether it is so in the North now, but it used to be in some of the collieries—where collieries were working subject to certain rules, and the rules were put into a book, each man signed his name in the book and he was engaged subject to these rules, and the book was signed at the end either by the manager or the employer, and the rules were regarded as binding because they were used in cases when there were disputes. These books used to be produced in Courts of Justice before the magistrate, so that there is no more difficulty with respect to dealing with individual employers and workmen than there is in dealing between the trade unionists representing the employers and the trade unionists representing the workmen ?—That is not an accurate description, sir. Those rules you are speaking of are drawn up between the colliery owners and the pit-men.

3585. Yes, a certain number of pit-men were appointed ?—Yes, but they represented the whole body.

3586. So they did, but each man was bound by his signature in the book ?—Exactly, each man was bound by his own signature, of course, but I do not see that it is actually necessary that each man should sign for himself individually unless he is a trade unionist, because in Northumberland and Durham there are men who work in the pits (and there is a certain cause of friction there in consequence) who do not belong to the union.

3587. I am speaking with experience of a similar kind where there were unionists and non-unionists, and it was not a question of entering into an arrangement with a unionist association but with the workmen individually and that applied to a hundred thousand workmen ?—You must understand that those rules in the first place were drawn up by the representatives of the union and the representatives of the employer.

3588. No, I beg your pardon; there was no union in it at all. There was one man from each pit ?—Well, he represented the pit; he represented all the unionists in the pit.

3589. No, there was no question of unionism in it at all; the men in the pit simply selected one man to represent them, and they met a certain number of the employers and they agreed upon these particular rules, and that arrangement subsisted with certain breaks first of all for three years, then five, and then seven, and it existed a quarter of a century ?—I just wanted to say that there has never been a time in my memory in the North when there has not been a trade union among pitmen. I say this with reserve now because I do not know so much about the pitmen as I know about my own trade, but I think that all the rules that have been drawn up from time to time between the masters and workmen have been drawn up in consequence of the trade unions.

3590. (*Mr. Cohen.*) How many men belong to the Plasterers' Association ?—We have a National Association of Operative Plasterers and that includes the whole of the three kingdoms, England, Ireland and Scotland, and there are something like 8,000 men in that, but the particular branch I was connected with, which was Newcastle and district, included about 400.

3591. Were there many plasterers in Newcastle who did not belong to, that trade union ?—No, there may have been an odd one here and there but very few indeed.

3592. (*Sir William Lewis.*) And how many bricklayers were there ?—I think there would be about a similar number of bricklayers, but I could not say exactly.

3593. Were they also principally unionists ?—Yes, it was between the two unions that the trouble was, you know.

3594. So that the whole of the building operations of Newcastle were suspended for twelve months ?—That is so. Referring to this last paragraph on the first page of my *précis* (*Vide p 212, col. 1, ante*) "Using trade union funds for Parliamentary purposes." I object to that unless the Parliamentary Fund is itself voluntary, that is to say, there should be a separate fund for Parliamentary purposes and that should be voluntary.

3595. That is to say, it should be subscribed specifically for that purpose ?—Yes, and by those who are willing to do it; it should not be made a condition of belonging

Mr. John Young.
8 Dec. 1904.

Mr. John Young.
8 Dec. 1904. to the trade union that the members should subscribe to this Parliamentary Fund, because several of the men do not believe in the politics of the man who is sent to what I call misrepresent them, but they are compelled to pay. That is one of the great blots upon the system in my opinion. This is a thing within my knowledge now, speaking of the Northumberland and Durham miners; Northumberland supports two Parliamentary representatives, and Durham one, but every man in that union is compelled, as part of the conditions of his existing in that union, to pay towards the support of the Parliamentary representative. In the next case—I am speaking now of a man who does not hold the same politics as the member affected—it is a tyranny that that man should be compelled to pay for being misrepresented.

3596. (Chairman.) Is it your opinion that in a case of petty tyranny such as you have described to us or in the case of workmen being compelled to subscribe to the maintenance of a Parliamentary candidate there should be a legal remedy?—Yes.

Mr. HARRY LOCKHEAD

Mr. Harry Lockhead.
8 Dec. 1904. 3602. (Chairman.) You are Superintendent of the Cheshire District of the Salt Union, Limited?—Yes.

3603. What is the Salt Union, Limited—a single company?—It is a combination of salt manufacturers; the company was formed about fourteen years ago, and they practically control the whole of the salt trade of the country.

3604. Are there several companies or one company?—There are at the present time a few small companies outside the Salt Union, companies that have been formed since the Salt Union was incorporated in 1888. At that time all the salt makers of the country were embraced in this union, but since then a few other small companies have been formed.

3605. (Mr. Cohen.) At the time of the formation of your Union you swallowed up all the salt companies?—Yes; since then a few other people have gone into the business, but they are very small.

3606. (Chairman.) Are you prepared to consent that your *précis* of evidence should be made part of our proceedings?—Quite. The statement is as follows:—

I am superintendent of the Cheshire District of the Salt Union, Limited, who employ between 2,000 and 3,000 men in that district, according to the state of trade. At present about 1,300 men are engaged in salting, 1,400 as artisans, and 300 men on the company's craft. The union also employ a large number of men at their works in Worcestershire, Durham, and Ireland.

My directors are of opinion that it would not be expedient or advisable that any of the Bills (*Vide Appendices, pp. 7 and 8*), copies of which have been sent to me, should become law. They are quite satisfied with the law as it now stands. If the Bills or any of the Sections become law, the law would be prejudicially altered, both so far as the master and workman are concerned. The Bills deal generally with the following points:—

- (1) Legalisation of peaceful picketing.
- (2) Amendment of law of conspiracy.
- (3) Non-liability of trades union officials, or the funds of trade unions.
- (4) Restrictions of actions for interfering with business or contracts.

1. Legalisation of Peaceful Picketing.

As to peaceful picketing, I do not think that picketing of that character could be arranged for or carried out. It would be sure to result in violence and intimidation. Besides it would authorise a large number of individuals to follow any particular workman to and from his work, and this in itself would amount to deplorable intimidation. It would cause endless anxiety to the wife and children of the workman, and the man's frame of mind would be such that he could not efficiently perform his work.

I do not remember a case of peaceful picketing, but if it is intended to legalise, say, 100 persons following any of our workmen because they have not withdrawn from work we should think it very objectionable. It would certainly amount to intimidation, and as a matter of common sense it is evident that the vast majority of men on strike are not in the frame of mind to picket peacefully.

3597. You would wish it?—Undoubtedly

3598. You would wish that members of the union should be empowered to bring an action against the union?—Yes, if they are compelled to pay.

3599. They have no power of that kind now?—No.

3600. And you would like them to have it?—Yes. I would like to say from my own experience that in the election of 1892 there was a man brought up as a so-called labour representative and in everything he would have misrepresented me, and I fought against any of the funds of my own trade union being put to the purpose of returning that man, and I was successful; but suppose I had not been, I would have had to put my hand in my pocket to return a man whose opinions were most repulsive to me. You see where the tyranny comes in there.

3601. Have you anything more you would like to say?—No, I think we have exhausted the subject.

called and examined.

I suggest the words "or persons" be struck out of Section 1 of Mr. Shackleton's Bill (*Vide Appendices, p. 7*). I should not have much objection to one person peacefully obtaining or communicating information, but I think it would be wrong for any such person to endeavour to persuade any workman in our employ to abstain from working.

I believe that if any of the clauses relating to picketing became law the result would be merely to give increased facilities for intimidation.

In this connection, I would mention that my company, during the year 1892, had a difference with their watermen, resulting in a strike, which continued from 17th August until 7th September of that year, a settlement ultimately being arrived at by the intermediation of the Bishop of Chester and others, with the result that the men returned to work without practically any alteration in the mode of working. Details of this strike were reported to the assistant secretary (Commercial Department) of the Board of Trade, on 17th January, 1893, in response to a circular received from Mr. R. Giffen on December 1st, 1892.

In 1892, when the watermen struck work, it was my duty to endeavour to carry on the work of the craft department, and for this purpose the company sought the assistance of men from other districts to work the craft as well as to load the salt.

When the first batch of these "blacklegs," as the strikers called them, got to the works scenes of great violence occurred, compelling the company to seek the aid of the Home Office in protecting life and property, and a number of police from the counties of Lancashire and Cheshire were drafted into the district, as well as military.

The imported men on arrival in the town were met by large crowds, and were stoned and maltreated in various ways, and a number of the police were also seriously injured.

Picketing by its very nature tends to aggravation and disorder, and must, to achieve its aim, degenerate into violence when persuasive methods fail.

I am of opinion that employers should not be prevented from employing other workmen during a strike, and that such workmen when engaged should have the protection of the State, and not be at the mercy of the strikers.

A more recent illustration of the methods adopted by the members of trades unions is afforded by the strike at Ashton, Lancashire, where pepper was thrown into the eyes of girls; and this, I think, sufficiently demonstrates to what brutal lengths strikers will go when under the influence of great passion.

Specific illustrations of violence in the craft strike in 1892 could be given if desired.

2. Amendment of the Law of Conspiracy.

As far as I understand it, under Section 3 of the Conspiracy and Protection of Property Act, 1875, if two or more persons combine to do an act in contemplation or furtherance of a trade dispute they are not amenable criminally to the law of conspiracy. That section seems to me to go quite far enough, and if the law is altered as proposed in the present Bill such a conspiracy would not be ground for an action. The person so conspiring would not be liable either criminally or civilly. My directors do not consider such a change in the law advisable.

Other citizens conspiring together in a matter not relating to a trade dispute are liable to be criminally prosecuted. Therefore the workman has an advantage at the present time over the ordinary citizen, because under the section before referred to, when the conspiracy is connected with a trade dispute, he is not criminally responsible. That immunity from punishment certainly goes quite far enough.

If the law is altered, as proposed in several Bills, it would appear there is no remedy whatever against him, either civilly or criminally, if his act were done in contemplation or furtherance of a trade dispute.

A workman might not be afraid of one person endeavouring to procure him to do a certain act, but he certainly would be afraid if two or more, which might mean 200 or 2,000, were to ask him to do the same thing.

If a number of employers sent round a "Black List" of men, and thus prevented any man mentioned on such list from getting employment, they would bring themselves within the law as to conspiracy. I fail to see, therefore, what justification the Trades Unions have for asking that the law should be altered.

As affording an instance of the practices against which employers require the continued assistance of the law, I would draw attention to a report of a meeting of the river Weaver watermen, held in September, 1892, at which Mr. Morgan, the President of the Saltmakers' Union (which union was not affected by the dispute with the said watermen), said :

"That all kinds of persuasion had been used to persuade them to return to work, but they had gone home, and were content to remain at home; they were present that day to stand up for what was right, and if the watermen decided to go to work the saltworkers would start work too; but if they decided to keep away from the craft, the saltmakers would still refuse to load them.

"The saltworkers had no grievance themselves, but they would stand by their brethren. They would stand together for the future, whether the present struggle lasted a week, a month, or more."

3. Non-liability of Trades Union Officials, or the Funds of Trades Unions.

At present officials of trades unions, who know that their funds may have to suffer if they connive at the breaking of the law openly or otherwise, have an incentive to prevent the besetting of premises, and to discourage organised violence and conspiracy. It is undesirable to remove so salutary a check on the tendency to intimidate and to damage the employer's business, which almost every strike of importance proves to exist.

To give the unions, otherwise the majority of the men collectively, the right to do some unlawful act which the individual alone cannot do legally, seems to be subversive of all principles of equity and a means of evading responsibility. In practice it would probably mean that the individual would never himself commit any legal offence, but he would ask his union to do it for him, and by bringing the power of the unions in, in purely individual matters, would probably create strikes on small issues.

There is objection to notice to leave being given by societies for the men collectively as in some cases men are compelled to go out whether they want to or not. The engagement is individual—responsibility for payment of wages is individual, and the responsibility for payment of compensation in case of accident is individual.

4. Restriction of Actions for Interfering with Business or Contracts.

The proposal is a serious alteration of the law. First it does not say whether the act proposed to be done is to be a peaceful act or an act of violence. There ought to be absolute freedom of contract and freedom of service. Such a section as that proposed might interfere with the right of the employer to give extra remuneration to a more diligent and profitable servant. We have no objection to a standard rate of wages as a minimum, but there ought not to be any standard for maximum, otherwise the best workman is on a level with the worst, and instances have come to my knowledge where an additional rate of wages has been paid to a good workman, but it has been done secretly and without the knowledge of the Trades Union.

The difficulty of dealing with the workmen is that they are not amenable to the law because they are not individually financially able to pay any damages. Therefore a single workman is practically outside the law in a serious case; whereas the employer is within the law because his financial position is a guarantee against wrong-doing.

3607. You mention the points upon which you have an opinion: do you approve of the proposals in those Bills that watching and besetting for the purpose of peaceful persuasion should be rendered legal?—I do not think they should be made legal; I am quite a layman in this question—I am not a lawyer in any sense of the word—but I understand that the power of peacefully persuading already is enjoyed by the unions—that is, so long as they do not intimidate or loiter.

3608. Yes, but taking the case of peaceful persuasion in connection with picketing, is that lawful?—I suppose it is lawful providing the person so persuading does not follow the worker about or loiter about his premises or make himself objectionable in any way.

3609. Do you desire picketing to be abolished altogether?—I do not like to confine myself to a dogmatic statement of that kind exactly. My company are not opposed to trade unions at all, provided they are properly controlled, and the State offers the same protection to the employer as to the labour unions.

3610. (Sir William Lewis.) Only you say that in your opinion, according to what you state in your *precis* of evidence, picketing is sure to result in violence and intimidation?—That is my opinion; I am afraid, that peaceful picketing is hardly possible, because the men are in a very excited state of mind. I can quite sympathise with their feelings and understand that being out of employment they are not likely to look with friendly eyes on another man who is willing to take the work they have refused.

3611. (Chairman.) On the second point which is mentioned in your memorandum, you refer to a strike of the River Weaver watermen and to the words which were used with reference to that strike by Mr. Morgan, the President of the Saltmakers' Union, and the words are: "The saltworkers had no grievance themselves, but they would stand by their brethren" (that is, the watermen). "They would stand together for the future, whether the present struggle lasted a week, a month or more." Do you consider it unlawful for the saltworkers having no grievance against their employers to strike in order to assist the watermen, who had, or thought they had, a grievance?—Yes, I think it is unlawful, and I think it is unfair to the master. There was no dispute whatever between the company and the saltworkers. There is no doubt that the Watermen's Union influenced the other men to come out with them in order to strengthen their hands to obtain what they required.

3612. You say they had no grievance, but I suppose they thought they had a grievance or some object of interest themselves; they did not do it for nothing?—When I say they had no grievance I mean that as far as we were concerned we had no differences with them.

3613. (Sir William Lewis.) You did not know of any grievance?—No, we had not any; it was never for one moment suggested by the men themselves that they had a grievance.

3614. They made no complaint?—Not the least. They wanted to work in sympathy with other unions, and I suppose they thought it was for the benefit of the trade union bodies in the district as a whole, that they should stand together.

3615. (Chairman.) Would you make that criminal or actionable?—I do not say I would make it criminal; I think I would make it actionable if they unlawfully leave their work. They might quite easily put the master to very considerable loss.

3616. (Mr. Cohen.) What do you mean by "unlawfully leave their work"?—I do not say I would make it a criminal thing.

3617. I thought you said "unlawfully leave their work"?—It is unlawful, surely, if they leave without notice.

Mr. Harry Lockhead.
8 Dec. 1904.

Mr. Harry
Lockhead.
8 Dec. 1904.

3618. (*Sir William Lewis.*) But suppose they give notice?—I think if I could show that they had no grievance and that they had given notice merely in sympathy with somebody else who had a grievance, I as an employer ought certainly to have a cause of action against the men who so left my employment.

3619. (*Chairman.*) Then you consider that what we understand by a sympathetic strike should be actionable?—I do.

3620. Apply the same considerations to the employers. Supposing there is a strike at employer A's premises, do you think that employer B is justified in locking out his men with whom he has had no quarrel without any breach of contract in order to assist employer A?—As a general proposition I do not.

3621. You think that should be actionable?—I think the law should apply equally to both parties. I seek for no privileges myself for the master which I would not be willing to give to the man.

3622. Then would you think a general lock-out always actionable?—I would only make a lock-out permissible if a section of my men with whom I had no differences threw up their work in sympathy with somebody else who had a difference with me.

3623. I am afraid I do not follow that?—I say that if a section of my men with whom I have no difference whatever throw up their employment with me because I have a difference with somebody else, in that case I would like to be protected against loss in my business.

3624. You mean this, that you would hold to be permissible a general lock-out if it was rendered necessary by a sympathetic strike?—No, I would not hold it to be permissible; I have no sympathy with what is termed a sympathetic strike.

3625. You have already told us that you think a sympathetic strike should be actionable?—Yes.

3626. And you have told us generally that you think a general lock-out should be actionable, but you have since qualified that statement by saying that you think a general lock-out should be permissible if it was a counter move to a sympathetic strike—at least, so I understood you?—No, I am afraid I have not explained myself as I intended. I am afraid I have not followed your point.

3627. You think that a sympathetic strike should be actionable in all cases?—Yes.

3628. And you think that as a general rule a general or combined lock-out should be actionable too?—Yes.

3629. But, nevertheless, you consider that a combined lock-out should be legal and justifiable if it is a reply or response to a sympathetic strike which has been established?—Precisely. At the same time I do not like that kind of thing, and I hope the masters would not feel it necessary to follow such an unfortunate action as that on the part of the union by doing to them as the men do to the masters. I think the masters ought to take a broader view.

3630. (*Mr. Cohen.*) If a sympathetic strike were held illegal then you would also say that a general lock-out should be illegal?—I would.

3631. Your last answer simply means this: if a sympathetic strike is not illegal then you think the employer would be justified in self-defence to cause a general lock-out?—Yes.

3632. But if a sympathetic strike is illegal then you say a general lock-out is illegal?—Yes.

3633. (*Chairman.*) To complete that, would you not say that if a combined lock-out has been started, and then it is followed by a sympathetic strike in response to that lock-out that sympathetic strike should be legitimate?—Well, it would certainly have my sympathies.

3634. But we are talking of "at law" throughout?—I think it should.

3635. That would be the natural result of what you said?—Yes.

3636. Have you anything else to say on the point?—I was going to say that the masters are rather at a disadvantage in the case of a lock-out as compared with the men. The masters' position would be a very unpleasant one. Take our own case: Practically the whole of a small

town of 10,000 inhabitants depends upon our trade and the bulk of the men are employed by us. Now, supposing we had a strike with perhaps fifty men and we saw that there was a certain amount of sympathy being given to these men by the other sections of our trade, and we decided to have a lock-out, it would be most unpleasant for us, and disastrous to our business. It is not like being in a large town where you are a mere unit amongst thousands of others. In our town we are the only people practically who do employ labour, and therefore it would be unpleasant for us to lock-out our workpeople.

3637. (*Sir William Lewis.*) You are in an exceptional position, but still you cannot differentiate in arranging these matters, you cannot take any particular consequences into account?—No.

3638. Besides, you have to keep your workings open too?—Well, we want to.

3639. (*Chairman.*) Now as to the Taff Vale case, you are familiar with that case?—Yes.

3640. Do you consider that the funds of a trade union should be made answerable for the tortious acts of the agents of the trade union?—Yes, I do.

3641. Have you had any experience as to the effect of the Taff Vale case upon the tendency to strike or the tendency to do unlawful acts?—No. I would just like to say in further answer to the question about trade union funds that I recognise the contributions are made by the members, in some cases at any rate, in the nature of provident funds, and are intended to help them when out of employment, or in sickness or at death, and I think certainly they ought to earmark the subscriptions, and a certain proportion devoted to the objects of a friendly society, and the other portion, of course, for the ordinary work of carrying on the union.

3642. (*Mr. Cohen.*) You mean that the Executive of trade unions shall not have the power of making use of those funds, which we may call provident funds, for strike purposes?—Yes.

3643. (*Chairman.*) Do you mean that the law should compel the separation of the two funds?—I do, in view of the Taff Vale decision I think it would be very desirable.

3644. That the distinction should be compulsory?—Yes.

3645. If I suppose you would say that endeavouring to get compensation from a single workman is practically impossible?—Quite impossible.

3646. (*Sir William Lewis.*) With respect to drawing a distinction between certain portions of the funds, why should there be any difference in respect to trade union funds as to the objects for which they are subscribed more than in the case of any individual? In the case of any individual committing a wrong everything that he has got without distinction is subject to the law?—Yes, but I think there is no question about it, at any rate it is so in my experience, a large number of men join a union very chiefly to have the advantage of monetary assistance when it is required, that is when they are out of employment or when there is sickness in the house. Many of them look upon the union as a friendly society.

3647. They can join a friendly society pure and simple, if that is their object, and have this simply for trade-fighting purposes?—Yes, I suppose it amounts to the same thing in the end.

3648. As long as it is a portion of the property of the same union, I suggest to you that there should be no difference between any one portion of the funds and any other.

3649. (*Chairman.*) If, for instance, you get into debt and you are sold up, I suppose any policy of insurance which you had on your life would go to your creditors?—I suppose it would, but I do not know whether that is quite the same case.

3650. What is the difference?—If I can save out of my income £50 a year, and I make a present to my wife of the half of that £50 I have finished with it, and I am only £25 to the good at the end of the year, not £50. The £25 would therefore be the only sum subject to my creditors. Would not this be rather the same case?

3651. (*Sir William Lewis.*) Do you suggest that it would? I am afraid you cannot ask us questions?—I perhaps should not have put it in that way. I will illustrate it further in this way. A workman is subscribing a shilling a week to a trade union fund, and he knows when he joins that union that in certain eventualities he is entitled to aid from the union; that is a part of the bargain between the man and his union. Well, I think under those circumstances it might be unfair to the man to say that the whole of those funds must be liable for any act the union commits which is found to be illegal. I think I would like to protect the working man to the extent of his contributions to the provident fund.

3652. (*Mr. Cohen.*) Let me ask you this: A person joins a trade union, which is managed by an Executive generally, is it not?—Yes.

3653. And then there are certain delegates and a delegate does what is wrongful and not in accordance with the rules of the union. Would you think it unjust if a member of the union were held liable to the extent of the whole of his private fortune to make compensation in a case of that kind, or would you say that the compensation should be limited to the funds of the union?—I would not be inclined to suggest that it should go further than that. I would not like to go to extremes. I think that the reaction might be very dangerous.

3654. (*Sir William Lewis.*) In respect of that same individual's personal liability, you would not suggest that the law should be altered so as to qualify it in any way, but because it is the money of this union you say it should only be partially liable—is that what I understand you to say?—Yes, but steps should be taken which would prevent the provident funds being used for some other purpose.

3655. (*Mr. Cohen.*) That is not the answer to the question I put to you. I was drawing the distinction between all the funds of the union and the property belonging to the individual member. Some persons have thought that the member should be liable to the extent of the whole of his fortune, and others think that it is only the funds of the union that should be liable: I want to know what view you take?—I take the view that the funds only of the union should be liable.

3656. (*Chairman.*) Of course, what you are expressing now is your opinion of what you think ought to be the law; I am not to understand you as saying that that is the law at the present time?—No.

3657. (*Mr. Cohen.*) As to that you do not express any opinion one way or the other?—No.

3658. (*Chairman.*) Is there anything else you would like to add to your evidence?—I would like to add something on the question of conspiracy, and as you have seen in my statement I refer to this. When the strike in 1892 was in progress we found it necessary to employ men from Liverpool who were members of another union and out of employment. When the strike was nearing a conclusion the Weaver watermen themselves subscribed £500 to pay out these strangers. I do

not know of another case in the country where the Union have done this. We said: "We are not going to throw over these men who have helped us in our trouble; we are going to keep them engaged on the craft; we will take as many of you back again as we require and no more;" but, as I say, they subscribed £500 to buy the men out, and they said further that these strangers who belonged to Liverpool should not be interfered with as far as they could help it.

3659. Those who remained with you?—The strangers the Watermen's Union paid off in order to get their own men reinstated on their craft. Immediately the strangers returned to Liverpool they were boycotted. Notices were posted on the walls that they were not to be engaged. The Lord Bishop of Chester, to whom the undertaking that they should in no way be interfered with was given, was for some time afterwards trying to assist the men to obtain employment.

3660. (*Mr. Cohen.*) Do you think that was done by the orders of the trade union?—I have no evidence, but it may be fairly assumed so.

3661. (*Chairman.*) What is your inference as to that? Do you consider that the conduct of the trade union, assuming that they did it, was actionable or criminal?—I think it ought to be criminal; I feel very strongly about it.

3662. On what ground—because it was a breach of the agreement?—They had no right to interfere with those men obtaining employment just where they could.

3663. That raises a much larger question: Are you against the unionists having the power to strike against non-unionists?—Yes, I am, decidedly; I say that it should be perfectly open to the master to employ union or non-union men as he pleases, and I would not allow a trade unionist to say to another man, "You are a blackleg because you are not a member of our union, and we will not work with you."

3664. (*Sir William Lewis.*) And you say further, I observe (*Vide p. 216, col. 2, ante*), "That such workmen when engaged should have the protection of the State and not be at the mercy of the strikers?"—Yes.

3665. (*Chairman.*) We are not now questioning the right of the employer to employ unionists or non-unionists as he likes; that may be assumed, that is to say, if he can get non-unionists. The question is, whether non-unionists may refuse to work with unionists or unionists may refuse to work with non-unionists: are you against their having that power?—I am against them having the power to withdraw their men if I do employ a non-union man.

3666. Take it in this order, are you against the workmen who are unionists refusing to work alongside a non-unionist?—Yes, I am.

3667. Is it your opinion that if a unionist in the name of himself and of other unionists who are in the employ of the employer, or in the name of the union, goes to the employer and says "unless you dismiss those non-unionists we will strike work," that should be criminal or actionable?—I think it should be actionable—yes.

Mr. EDWARD NEWMAN called and examined.

3668. (*Chairman.*) Will you kindly tell the Commission what you are?—I am a North Sea and Channel pilot and rigger.

3669. Is that an employer of labour?—Well, I have been an employer of labour also in the barge line. I went into business in the ballast and stevedoring line and boat barges.

3670. Would you call yourself a workman or an employer?—I should call myself an employer at the present time.

3671. You have sent in to the Commission a *précis* of the evidence you are prepared to give; do you desire that that should form part of your evidence to-day?—Yes.

The Statement is as follows:—

Should any of the four Bills, 7, 8, 55, 91 (*Vide Appendices, pp. 7 and 8*), or any part of them become law they would prejudicially affect me in my business, for in nearly all my contracts I have to apply to the police for protection as

the law now stands, so that if these Bills become law my men and myself would not be able to work with the same amount of freedom as we have at present, for I have never seen a case where union men were allowed to approach free labour men but what they used violence, and in many cases have injured men for the remainder of their lives. I have been injured on two occasions myself, and in fact go about in fear at all times, for I believe in free labour and freedom of contract, and have practised it for twenty years, and am determined to uphold it to the best of my humble ability. In my opinion the present law is not strict enough, because very often a brutal assault will be committed upon an inoffensive person for the simple reason that he is going to work for some one who is satisfied with him as a workman and he is satisfied with the person he is going to work for as an employer. This man, being a free labourer and belonging to no organisation, has very often to let an assault pass by; he has not the means at his disposal to prosecute men belonging to unions as the unions provide all legal expenses, and very often those men

Mr. Harry Lockhead.

8 Dec. 1904.

Mr. Edward Newman.

8 Dec. 1904.

Mr. Edward Newman.
8 Dec. 1904.
that half-kill the free labourer are let off with a paltry fine, and the union pays the fine and the offender is paid for his brutal work and considered a hero by his fellow-workmen. Such a man is generally a pugilist and ought to have a long term of imprisonment without the option of a fine. Such men as these, as a rule, are made three parts drunk by union officials before they set them on to the victims. I have sometimes contracted to take a vessel from London to Cardiff as first or second officer and also supply a crew to take the vessel round. I have gone and picked up the men, never asking if they were union men or not, as I do not care who the men are so long as they are British subjects, for I never employ aliens; then, at the last moment, just as the vessel is going away, down will come the union officials and order the crew to leave the ship, for the simple reason that I am not a member of that particular union that has been the cause of introducing more aliens into the Mercantile Marine than any other cause I know of. We have also had other very disagreeable experiences in the shape of assaults. There have been a number of men paid to hide themselves away in some quiet place, while one or two are appointed to start an argument with reference to the work, then the other fellows will come out and attack us, and, as a rule, they are generally armed with pieces of wood and other weapons, and no sooner have they completed their cowardly work, which is generally done in the darkness, than they clear out and we have no means of recognising them. These are a few of the tactics of the British and Foreign Seamen's Union.

I bought barges and went into the ballast and lighterage business. A strike occurred among the watermen and lightermen of the Port of London. I could not get men to work, and as I was under a contract with Messrs. Robinson, Robinson, Smith & Co., of Bow, I determined to work myself with my foreman. What was the consequence? My barges were let adrift and broken to pieces as the result of our working to fulfil our contract, while the men of this particular union were on strike. Then, again, I have been boycotted by employers, and I have never known the cause until some time afterwards; then I found that these union people had been in communication with the employers, making all kinds of false statements about me, and the employers never caring to take the trouble to investigate. There the matter ends and I fall between two stools, the employers on the one hand and the trade unions on the other, for, in many cases, the managers of the employers are paid by the trade unions who are practically ruining me.

3672. Have you as an employer experienced difficulty with unionists?—Oh yes, at times.

3673. Can you tell us in what way they have interfered with you—not by way of violence or threats?—In many ways; for instance, if I was stevedoring or ballasting a ship which had to go away the next morning and I was going to work all night with my men, in the evening certain people would come down and ask my men to relinquish working all night, and in consequence the ship would be stuck up in the morning.

3674. That is highly inconvenient for you, but would there be any breach of contract in that?—There would be a breach of contract because I would have all the money in jeopardy.

3675. But would there be any breach of contract between you and your men?—No, the only contract is that the men say they will work all night, in the forepart of the night when I tell them what is to be done, and then they leave off afterwards.

3676. For the purpose of discussion we will assume there was no breach of contract, but that it was highly inconvenient to you and, if you like to say so, treacherous of them, but do you think their conduct, such as it was, ought to be made criminal or actionable?—I think it ought to be made actionable.

3677. Although they have done nothing illegal?—Well, there was nothing illegal, but it was illegal for me, my money being in jeopardy and the ship could come upon me; if it was not illegal criminally, it was illegal in a county court action.

3678. (*Sir William Lewis.*) They would know that you had contracted to finish the ship, say, by to-morrow morning and that you expected them to work through the night in order to do so?—Exactly.

3679. And they were prepared to do so until somebody came down late in the evening and told them they ought not to do it, and then they suspended work; was that it?—That is exactly the position.

3680. (*Chairman.*) Would you make that actionable as to the workmen who refused to go on all night?—I consider it ought to be actionable.

3681. Can you say what the illegality consisted in?—The illegality only consisted in a breach of trust on their part; you put confidence in the men that they will finish their work and they do not do it.

3682. (*Sir William Lewis.*) What is the contract between you and your workmen? Say that a ship comes in this morning and they know that you have got to unload her and you want half-a-dozen men, is your arrangement with those men to work continuously until she is finished whether it is to-night or to-morrow morning or to-morrow night?—My arrangement with the men is to work until the ship is finished to get her away.

3683. Anything they do in the interval so as to suspend operations you would consider as a breach of the arrangement?—It is a breach of trust on their part.

3684. It is a breach of contract?—Certainly.

3685. And therefore you say you consider that would be actionable; that is the reply you gave to the Chairman?—Yes.

3686. (*Chairman.*) If there is a breach of contract the law gives you your remedy. I was speaking of what I supposed to be the case with you. I daresay I was wrong, that although you suffered very much from the men refusing to work all night they had not broken their contract?—When they start they know they are going on to finish the work.

3687. Do not say anything about knowing; it must be quite clear: were they under contract to work all night or not?

3688. (*Sir William Lewis.*) Have you any doubt in your mind in answering the Chairman as to the nature of the contract between you and these men, that when they start, say this morning to unload a ship, they will require until to-morrow morning or if necessary to-morrow night if they suspend operations before the completion of that job that is a breach of your contract with them?—It would not be exactly a breach of contract with them; it would be a breach of confidence in the men.

3689. Not contract?—Not contract; I do not enter into a contract with the men to do it.

3690. Not a written contract, but do you arrange what you are to pay them?—I arrange what I am to pay them.

3691. At what rate do you pay them, by hour or day, or so much per day and so much per night?—They might be working by the ton or by the night.

3692. Supposing I were one of those men, what would be the nature now of the arrangement between you and me for the purpose of unloading that ship? Would you say you would give me 3d. per ton for unloading her and that I was to work continuously until she was finished? Is that the nature of the arrangement?—I do not know so much about unloading; I was going to refer to the ballasting of a ship.

3693. Then it is just putting stuff in instead of taking it out; it is the same nature of arrangement. Take the ballasting of a ship, a thing I am quite as much familiar with as unloading; in ballasting a ship is your arrangement with your workmen that they or any number of them that you arrange with shall load that vessel, whether she requires 200 or 250 tons, continuously until completion at so much a ton?—No, say that we started work on the Saturday morning and she went away on the Sunday morning and they were to work until they finished I would pay the men 9d. a ton, and for night work I pay them 7s. 6d. besides.

3694. Do you expect them to work continuously?—Yes.

3695. You pay them extra for the night work, which is a common thing in every port?—Yes.

3696. (*Chairman.*) I have no wish at all to say that the men were not committing a breach of contract, but I will ask you this: If there was a breach of

ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

contract would not the persons who broke the contract and the persons who procured the breach of contract, both under the law at present, be liable?—They would if you could get at them, but it is such a roundabout affair that you cannot get at them.

3697. The question I really wanted to ask you was this: assuming that there was no breach of contract, but that they had behaved shabbily to you and prevented you from completing your work, do you think on that ground you ought to have a right of action against them?—I think so.

3698. (*Sir William Lewis.*) You have referred to boycotting in your *précis* of evidence; in what way were you treated with respect to the barges which you say were let adrift and when you were boycotted by the workmen for some reason or other?—At the time of the strike at the Port of London between the lightermen and bargemen in the River Thames I was working for Vigers Brothers, King William Street, and I was taking wood to Chelsea Creek. I had apprenticed myself, and I was working on the river while the strike was on. In my absence it appears that a union delegate belonging to the Watermen's Union came up and said, "Who is doing that wood?" and the foreman said, "that belongs to me, and my governor"; the delegate then said, "this is a blacklegging job, you have no right to do this, and our men are out on strike," and my foreman said, "we are to do it, anyhow." The consequence was that we went on with the work, but I used to have my barges let adrift out of the creek, and I had the whole of the police in the River Thames for a fortnight looking after one of my barges, and when I found her she was all broken up, the pumps gone and everything else, and I assumed it was some of the union men that had let her adrift out of the creek.

3699. (*Chairman.*) Of course, if you could have found out who the men were who had done that to your barges you could have had them punished?—Of course, I could have had them punished if I could have found out the men, but that is the difficulty.

3700. (*Sir William Lewis.*) You were not in any way interfering with the strike?—They reckoned I was interfering with the strike by working for this particular firm that they had struck against.

3701. The firm you were working for was one of the number that they were striking against?—Yes, the firm I was working for was Vigers Brothers, and the union lighters were doing their work before the strike. We were working for the firm of Robinson, Robinson, Smith & Co., when this other firm came to us and said: "You are getting 6s. a stand for taking this stuff to Bow; we will give you 12s. 6d. to take our stuff to Chelsea, which is easier," and we entered into the contract and took the job on, of course. After we did so the union delegate came down on us as I have already described. I had another barge called the "Rose" heavily laden one night, and the next morning when I came down she was sunk, but I cannot prove who did it, although I surmised who did it.

3702. And you have no redress at all?—No redress at all.

3703. (*Mr. Cohen.*) How could one give you a remedy if you could not discover who did the damage?—They could not give me a remedy in that case, of course.

3704. I see there is a statement here (*Vide p. 220, col. 2, ante*): "Then again, I have been boycotted by employers, and I have never known the cause until some time afterwards; then I have found that these union people had been in communication with the employers, making all kinds of false statements about me, and the employers never caring to take the trouble to investigate?"—That is quite correct, too.

Mr JAMES A. BADGER called and examined.

3717. (*Chairman.*) Your work is that of a tile mosaic and faience fixer?—Yes.

3718. And you carry on work in the neighbourhood of Manchester, usually?—Yes.

3719. You have sent in to the Commission a *précis* of the evidence you are prepared to give to-day and you are willing that that should form part of your printed evidence?—Yes.

The Statement is as follows:

In giving my evidence to your Commission, I beg to

3705. That is the fault of the employers, is it not?—*Mr. Edward Newman.*

Yes.
3706. (*Sir William Lewis.*) What would be the object of the employers in punishing you at the request of the union?—The union men would not tell exactly that I had been working for somebody else when there was a strike on, but they would bring some false accusation against me.

3707. (*Chairman.*) I suppose they would have been liable in a court of law for doing that?—They would, but the difficulty is in getting at these people, and there is the difficulty for a poor man to follow up a libel action in a court of law.

3708. (*Sir William Lewis.*) Did they describe you to these employers as a blackleg?—Goodness knows what they would say behind my back. I will give you an illustration. I went into a contract with a surveyor to supply him with 200 yards of hard core—I described the stuff to him and I delivered 200 yards of hard core down at a certain place. When I delivered the stuff, however, I was told "this is not what we wanted," it is too large, or it is too small, and all that sort of thing, and there were a lot of objections raised to it. I presumed, of course, and I heard indirectly, that these union people had been at work. There is a lot of these union people on the Borough Council in that particular borough, and that is how you are boycotted. You cannot find out directly how you are boycotted, but they do it.

3709. (*Mr. Cohen.*) Do you know the Association called the Free Labour Association?—I do.

3710. Have you applied to them for protection and for assistance?—No, I think you would find they could afford me no assistance at all. I have no faith in the Free Labour Association. I represent free labour; and I think I am the first man in Great Britain to represent free labour.

3711. Why have you no faith in the Free Labour Association?—Because I am practically a free labourer myself, and I believe in it, but I have no connection with that Free Labour Association.

3712. Why not?—Because we are practical workers, my men and myself, and we have nothing to do with the Free Labour Association at all.

3713. (*Sir William Lewis.*) The distinction between you and them is that you work and they try and get money for somebody else to work?—Yes, they merely get employment for somebody else and all this kind of thing; if we do a job cheap for anybody we have to suffer and we have only the rate of a cheap job, but the Free Labour Association merely get men and they do not care what they do; they do not do the work themselves and I suppose they never have worked in fact. In 1892 I gave evidence before the Royal Commission on Labour in the interests of free labour and I have my evidence here. I think you will find that that evidence shows that I represented free labour there (*handing in the same, Vide Minutes on Evidence, 14475 to 14570 of the Royal Commission of Labour, Group B., Vol. 11, C.-6795.-v.*).

3714. Were you connected with the Free Labour Association then?—No, I represented independent free labour.

3715. I see you say in the evidence you have handed to me "On behalf of myself and free labour, understand me rightly, not the Free Labour Association under the jurisdiction of the employers nor yet the Shipping Federation. That does not represent free labour, but I am entirely outside of either?"—Yes.

3716. (*Chairman.*) Have you anything else you wish to say?—No.

I was many years on the council of the Church of England Working Men's Society, embracing some thousands of members of all trades, also the president of St. Pancras branch and a member of the Lay Helpers' Association of the Diocese of London, in Bishop Temple's time.

Mr. James A. Badger.

Dec. 1904.

Mr. James A. Badger. My son is secretary of a branch of the General Labourers' Union in Birmingham.

Dec. 1904. I have given careful consideration to the three Bills brought before Parliament, and the details of evidence I propose to give is as follows;—

I, as a working man of many years of practical experience and the highest testimonials of workmanship and general character, and as a member of a trade union for many years, have been prejudicially affected in following my employment by being boycotted while even paying to a trade union.

ILLUSTRATIONS.

1. In December, 1901, I was engaged as foreman by a London firm to superintend a tiling contract for the Great Northern Railway Company. My instructions were to make a good job and push on the work at a reasonable rate, so as to keep within the estimate. On the Tilers' Society hearing of it, a meeting was called of the officers, and I was informed that on paying 2s. 6d. per week, and only employing society men, I should be allowed to proceed with the work. To this I agreed. In the course of a week or so, the secretary of the society stopped the job for three days. I was then informed that I must pay 5s. per week to the society; to this I agreed, and the men were instructed to restrict the amount of work. After a week or so more, I was informed I must produce the firm's correspondence for the secretary's inspection. This I refused to do in the interests of the firm. The secretary again stopped the job at a minute's notice, without reference to the firm. The full rate of wages was paid over and the society rules worked to. I corresponded with the firm, who were forced to sub-let the work to a local firm and discharge me, the other men also losing their work. No reason was given for the stopping of the work, only that the secretary wished to inspect the firm's correspondence. On my threatening the society with a solicitor's letter, informing them that I should take action, the following letter has been sent all over the country for the past two years to any town or place that I apply for employment:—

"NATIONAL ASSOCIATION OF TILE, MOSAIC AND FAIENCE FIXERS.

* Dear Sir and Brother,

"At the meeting held on February 22nd, it was unanimously decided by the full meeting* of members that James Badger be struck off the books for acting contrary to the society's interests, also non-compliance of rules, and that he is not allowed to become a member of this society again or in any of its branches, and that none of our members be allowed to work with him, or for him, or in any firm where he may be employed.

Yours on behalf of the above society,

T. H. Wilson,

Secretary."

* N.B.—The "full meeting" was a private meeting attended only by five officers of the society.

Manufacture of Strikes.

With regard to strikes, it is the practice of the secretary of a society to inquire on the pay night of the walking delegate for any cases or reports, and in even the smallest of disputes small grievances are enlarged to tap the society's funds (which in the first instance were intended as an aid to thrift) to enable the agitator and pickets to obtain extra payment.

Impossible to Picket Peacefully.

It is impossible to beset or picket places, or men, in a peaceable manner; it will tend to degrade both the labourer and the tradesman, and to the abuse of the law of liberty. Any man who has the stability to say he fails to agree with the methods of the present day trade union officials is a marked man. Hundreds of men are now the victims of the leaders of trade unions.

To give in the present circumstances a statutory law as to picketing would be to inflict upon workmen the same intolerable grievance of giving to uncultivated and paid agitators the whole control of the British trade.

In the event of a general strike movement, as advised, the country would be disturbed by disorders—artificially provoked without reason. There is the most ample freedom for everyone within the present limits of the law. I

am confident that the working class generally will sufficiently understand their true interests, and will sufficiently understand their true dignity, and will have a sufficiently high conception of their worth, not to let themselves be oppressed by tryannies coming from the extreme parties in trade unions, who have abused the law of liberty.

Again, there is not among the members of trade unions one member out of every 400 who will take any active part in the work, or even attend his union meetings. It is generally the wives who keep the union payments up; for them the prime object is to obtain work at the highest rate of wages, also as an aid to thrift for the sick benefit, out of work fund, if any, or a sum payable at death to wife or friends. It is the paid officers who hold office year after year and their colleagues who are dictators. A man must be a member of a union in order to be able to work, or to live in peace. He must not offend or oppose the social dictators or means are taken to place him at a disadvantage in employment, or a heavy fine of from £1 to £5 is placed on him, generally in his absence. If not able to pay, he will not be allowed to speak or take part in any meeting till at last he is got rid of, losing all that he has paid for years to benefit his wife and family. As an illustration—I attended at eight meeting nights of a branch of the General Labourers' Union, in Birmingham, for which my son is secretary; the attendance of members at five meetings was—five on one night, three on two nights, seven on a quarterly night, and four on the other nights; the membership of the branch was 500 paying members.

Parliament to give ear to the Dictation of Trade Unions.

Again, for Parliament to give ear to the officials of trade unions and to ignore the unorganised non-unionists, who are the victims in many cases of the Socialist agitators who desire no interference in their demoralising work, will be a cruel law. I can give numerous instances, with dates, of recent picketing cases, to show what intimidation and outrages occur.

Law as to Trade Unions—Conspiracy Act, 1875.

From inquiry lately made from visits to working men's homes, out of a total of 708 only sixty were members of trade unions.

With regard to the law as to trade unions, the Conspiracy Act gives equal rights before the law, but the qualifying clause in the Conspiracy and Protection of Property Act of 1875, as to attending to obtain or communicate information, should be repealed.

Trade Union Funds.

Again, the funds of trade unions are now protected by the law as against dishonest officials, when such acts are made public, but the method adopted is far from right, and the society's books in hundreds of instances are falsified.

Again, to protect a trade union against actions for the unlawful actions of the officials is placing them far above corporations, railway companies, etc., who are liable for the acts of their servants, and will take away the protection of the members of Trade Unions against officials who are agitators and likely to lead the union into disaster for the purpose of handling the funds themselves. The law at present is a check against that.

Protection against Trade Unions for Non-Unionists.

Again, I am not, in my opinion, sufficiently protected by the existing law against victimising by a trade union. I cannot apply to any law officer to obtain action against them. On stating my case for a working man to take action himself, he must find a lawyer, costing £30, to take it to Court for justice. What working man has that, who has a family? In my case the union have it all their own way, and have kept me out of employment this last two years.

There are some thousands of men who are victims of trade unions, mostly the older members, who are looking to your Commission to do them justice, to give freedom to work in liberty. Out of over 2,000 unemployed in this district, not one on the unemployed register is able to make any claim at the hands of trade unions.

Again, trade unions, in giving the number of members they represent, give their total, including all lapsed members.

In giving my evidence *without prejudice*, I desire the law of liberty to be equal, both to employer and

employed, and that the thousands of unorganised workmen should have the right to work without interference. Any society which acts in reason, and is just in its dealings, can obtain members and avoid strikes by fair and sound judgment. There is no reason for picketing or paid agitators in trades.

Again, I propose to bring before your Commission, letters, documents and rules of various trade unions, and their bye-laws, showing their unlawful methods which are endangering British Trade.

I beg to submit for your kind consideration the following suggestions for the avoidance of strikes and disputes:—

Firstly, the appointment of a minister of commerce and trade, who shall have control of trade.

Secondly, the said minister shall have power, on a dispute being submitted to him by either employers or a trade union or a trade society, after due six months notice of dispute, to appoint a County Court, other than Judge, with three assessors of employers and three assessors of workmen of same trade and business, the assessors on each side to be selected from those not in dispute, to hear the dispute; and the judgment of assessors and Judge to be binding on each side for six months or a year.

Expenses may be met by the employers paying two-thirds and the workmen one-third.

No strike or lock-out to take place till such court has heard the dispute.

Workmen victimized by a trade union or employer shall have a privilege of the said court for adjustment.

The said minister of commerce and trade shall have power to grant his certificate for the hearing of the case in dispute in any district most suitable.

Again, equal rights of liberty of both employers and workmen to be observed in all cases.

The funds of sick portion paid to trade unions to be controlled by Government protection which are now lost in the general fund in case of strikes or disputes.

3720. You had some difficulty, had you not, at the end of 1901 and in 1902 with the Tilers' Society?—Yes.

3721. Were you then an employer of labour and did you take contracts?—No, I did not take contracts.

3722. When you say you superintended a tiling contract for the Great Northern Company, who was the employer?—Messrs. Kent, of High Holborn, in London, were my employers.

3723. When you went to superintend that contract, as I understand you were called upon by the trade union to pay half-a-crown a week and only to employ society men?—Yes, which I did.

3724. We understand the engagement about not employing non-unionists, but why did they ask you to pay half-a-crown a week?—Because they thought I was in a position to pay half-a-crown a week and the funds were low at the time. It was a jealous feeling that existed; the men thought I was working piece work, and I have evidence from my employer and others (I brought it with me) to say that I was not working piece work.

3725. Supposing you had been worth a thousand pounds, would they have increased their demand upon you?—That is a question; that is where the difficulty comes in with uneducated men getting positions in trade unions.

3726. I do not understand what justification they had for asking you to pay half-a-crown a week?—Neither do I, but I have their receipts for it. I agreed to it when they called upon me to pay it because I had got the work to do.

3727. Do you consider it should be made unlawful for them to do that?—I quite consider it should be unlawful.

3728. Supposing a master said to a man who wished to be employed "I shall only employ you at two shillings a week;" do you think that ought to be unlawful?—For the employer to offer two shillings a week?

3729. To offer a wholly unreasonable sum?—I think so, if he gives an unreasonable sum for labour.

3730. You would not propose to put that man in the law court for that?—It is a very peculiar thing to offer because the sum is so small.

3731. Would you make it unlawful for a workman to ask a thousand pounds a week?—Certainly I would, because no man would be worth it.

3732. I lay stress on the word "unlawful." Would you make the workman liable to an action and to be punished in damages for asking an employer to pay him a thousand pounds a week?—It seems such a ridiculous demand.

3733. (*Mr. Cohen.*) You think it ought to be made illegal for a man in those circumstances to do or demand what is unreasonable?—Yes, that is my view. My view is that the intelligent class of workmen generally—I am not speaking of the rougher sort that has no care—would not ask an unreasonable sum.

3734. (*Chairman.*) What I wanted to get from you was this: When the union did make an unreasonable demand on you to pay first half-a-crown and then five shillings, do you think that the proper remedy against that sort of action is to put the union into the law courts?—No.

3735. Or do you think the proper remedy is to say: "Oh, if that is what you wish you may go about your business." Can you answer that question? Which do you think the proper course?—I should think that thing should be inquired into, but we have no opportunity of getting it inquired into, and a working man has no remedy for being victimized in that way.

3736. Yes; the firm for which you worked might have said to the union, "We do not want your services?"—Of course as far as that goes they might state that to the union, but I was the representative of the firm at that time, and there was no firm in Manchester. The work was put into my hands to carry through as the representative of the firm, and I considered that I was justified in doing my duty towards the firm and the workmen too, and the jealous feeling that got about amongst the men was that they thought I was benefitting myself out of it. I have the letters from the firm if you care to see them.

3737. They struck against you?—Yes.

3738. And the job was put into the hands of other persons who, I suppose, were ready to pay the 2s. 6d. or 5s.?—They could make no demand from those persons, because they were business men on their own account, while I was only a workman.

3739. They took advantage of you, you think?—Yes. You see I was employed as foreman to carry the work out, by a London firm; the London firm was not in Manchester and I was their representative there to carry out that work.

3740. But when another firm took over the business there was another foreman, I suppose, and they might have called upon that foreman to pay his 5s. a week?—No, there was no other foreman, because the firm superintended themselves.

3741. Then they might have asked the firm to pay them 5s. a week?—They made no demand upon them.

3742. Nevertheless, they resented their not having got 5s. a week from you?—Yes, very much.

3743. And you took action against them?—Yes.

3744. For what?—I did not take action; I just went to see a solicitor and he took counsel's opinion which he gave to me, that it was a case of libel and intimidating and he asked if I felt disposed to take the case up. He then sent them a letter.

3745. And they determined to punish you for that?—Yes, and they have done so for two years.

3746. What they have done is, that they have circulated for two years in various towns a warning to their "dear brethren" not to work with you?—Not only their "dear brethren" but it has been placed in the hands of the employers as well.

3747. To the workmen not to work with you, and to employers not to employ you?—Yes, and for two years. I can assure you I have lived upon the earnings of a daughter only getting 15s. a week.

3748. Do you consider that should be unlawful?—I think it is unlawful to the very highest degree; it is against the law of liberty in any shape or form.

3749. We will touch on the other points. There is peaceful picketing. What have you to say about that?—I think, looking to the passions of men, in the various disputes I have been concerned in, it would be a moral impossibility to have peacefulness in picketing. Speaking of trade unions as a general rule, instead of doing what they have done to me, by means of circular letters and printed matter, if they put before any reasonable men the advantages of a society, they could gain more influence over these men than they could by interfering with them in the street or picketing them at their work.

Mr. James A. Badger.
8 Dec. 1904.

Mr. James A. Badger. 3750. Do you know anything about the Taff Vale case ? You have heard of it ?—Yes.

8 Dec. 1904. 3751. Do you consider the principle of that case right, namely, that Trade Union funds should be answerable for the illegal acts of the agents of the Trade Union ?—I certainly do, and I might just state my reason for that. Workmen are not millionaires and they do have a little regard as to their financial position, so that where you have got a hold on the funds of a number of men, it acts as a certain check on the fire-eating or Socialistic body which is within the trade union. If you were to attend some of the trade union meetings, you would be surprised at the wrangling that takes place over different little matters instead of business, and, in a good number of instances, the funds, instead of being used for thrifty ends, have been confiscated to a very great degree, all by means of these

fire-eating parties, as I term them, within the trade union. A proposal is got up and one man is a little bit fluent in speech, and his poorer neighbour who is not so well up to the reasoning power accepts his views, and that is very often the cause of a strike, but in the interests of peace also I do not think that picketing would do any good.

3752. Is there anything more you would like to say ?—As far as the funds are concerned I think it is a great check not to allow these people to go whichever way they like, and by making their funds actionable the employers and workmen have an equal right to do their own business in their own way. I have some letters from employers, stating the reasons why they have been unable to employ me, and I can leave these with the Secretary if you so desire. (*The letters were subsequently handed in, and are printed as foot-notes on this page.*)

Mr. A. C. LISCOMBE called and examined.

Mr. A. C. Liscombe. 3753. (*Chairman.*) You have sent into the Commission a *precis* of the evidence you are prepared to give to-day, you are, of course, willing that that should form part of our proceedings ?—Yes.

8 Dec. 1904.

I should say, that I believe the Bills (*Vide Appendices, pp. 7 and 8*) which have been sent to me would be prejudicial to every non-society man. In my opinion the trade unions are sufficiently protected at present, and in justice to all parties they ought to be held responsible for any illegal act they commit.

Peaceful persuading is not defined in these Bills. What one person may call peaceful persuading, another person may call annoyance or intimidation.

Two or more persons associated together for certain purposes may use threats or abuse to another person and afterwards deny it, and the person threatened having no witnesses would be unable to prove it.

I have heard men in my trade claim that 90 per cent. of the trade are society men. Why do they want special protection if their actions are peaceful ? The minority, that is the non-society men, have no special protection.

It is a common practice of society men to apply the term "blackleg" to non-society men—no matter how honourable or well conducted a man may be or what his ability—only simply because he does not belong to their trade union.

The section exempting a trade union or a person representing a trade union from an action for the recovery of damages would, I believe, if it became law, make trade unions more intolerant, aggressive, and tyrannical than they are at present. Society men do all they can to prevent non-society men getting employment, and in many cases try and do prevent them from keeping it when they have it.

The existing law provides no protection to a trade union member to enable him to enforce any claim to the benefits he has paid for, or the return of any part of the money he has contributed for the receipt of those benefits. In some cases a member pays 3 per cent. or more of his total earnings in contributions, levies, etc., and he should be able to recover some of the money if he wished to withdraw from the society or if they expelled him.

The existing law does not provide for the enforcement of the registered rules of a trade union or the enforcement of members' right of appeal against arbitrary officials.

My experience has proved that a society having registered rules is only a farce ; a member cannot compel the society to adhere to them or to be bound by them. The majority of the members do not understand their own rules—some do not trouble to read them through. Not one in a hundred has read the Trade Union Acts.

A member has no remedy against false charges being made against him or being improperly excluded ; he cannot compel them to allow his appeal or to re-instate him after being expelled. There ought to be a compulsory arbitration clause in every society's rules.

In my opinion the law should enforce compulsory arbitration for the settlement of disputes between members and the society ; also the settlement of trade disputes between societies and employers, and non-society men should have an equal right to be represented—that is, the minority's rights should be protected.

I was a member of the United Patternmakers' Association. Feeling dissatisfied with the way the rules were administered and being unjustly dealt with myself, I used every constitutional means to obtain redress. Finding remonstrances useless and being unable to obtain redress, because the officials ignored the rules and refused to be guided by them, and supported their actions by false statements, I issued a circular to the members, calling attention to some points I considered necessary they should know. For issuing this circular, the General Secretary ordered me to be fined—no charge was brought against me, only the General Secretary's statement that I had "acted contrary to the society's interests." The General Secretary stated that this was my second offence, although I had never heard of a first offence. Consequently I issued another circular, and for this I was expelled by the General Secretary, who said it was my third offence. I requested to be informed of the date of my first offence and in what way I had injured the society or its interests, and asked them if they could produce any record of the first offence of acting contrary to the society's interests.

The society did not comply with my request, because they had no such record in their books.

I was a member of the Birmingham branch. The Birmingham branch instead of conducting their business as stated in the rules, which says, "Every branch shall conduct its own business in the manner set forth in the rules," allowed the General Secretary to dictate to them what to do. It suited their purpose, as the secretary of the Birmingham branch was implicated in this case. There is no doubt that he acted in collusion with the General Secretary.

I appealed against being expelled, but, in defiance of the rules, they did not allow my appeal to be dealt with.

I made an appeal to the General Council, but it was not brought before that body by the General Secretary.

I have been a trade unionist more than thirty years. I have been in this society fourteen years and paid all demands. In another six years I should have been en-

From Moorwood's, Domestic Engineers, Art Grate Manufacturers, 253, Deansgate, Manchester ; December 7th, 1904.—Dear Sir,—Some two years ago we had to discharge Mr. J. A. Badger, tile layer, owing to the action of the Secretary of the National Tilers' Association, who threatened to take all the other men out, and which he did on one occasion.—Yours truly, (Signed) J. Bewick.

Wood & Andrews, Locomotive Engineers and Manufacturers' Agents, 29, Princes Street, Manchester ; December 23rd, 1904.—Mr. J. Badger, 24, Clay Street, Strawberry Hill, Pendleton, Manchester.—Dear Sir,—In reference to your request that we should write you particulars concerning the difficulty we had on the Star Assurance Building in February, 1902. Owing to the lapse of time, we do not remember the more minute details, but the facts are substantially these :—We engaged you as foreman on that job, paying you 1s. per hour. You found two union tilers, to whom we paid the union rate of wages. On going to the job one morning we found the work stopped, and learned that some officer of the Tilers' Union had forbidden the men to work as long as you were foreman there. We were also informed that unless the trouble was settled at once, the other trades would leave in sympathy. The architect's assistant, who visited the job when we were there and found the work was not going forward, insisted that we must make some arrangements, so that it could be proceeded with. We, therefore, told you that if you could not clear yourself with the union we should be obliged to discharge you, and as you apparently could come to no terms with them, we engaged another foreman in your place. Your receipts seemed to show that you were not in debt with the union, and we never received a satisfactory reason as to why they took action against you, yours faithfully, (Signed) Wood and Andrews.

entitled to 7s. per week superannuation and 9s. per week at a later period. Now they have confiscated the whole of the money I have paid, thereby augmenting their funds at my expense. Many men are driven out of the trade union by clique and intolerance, and have to lose the money they have paid.

Every trade union should be compelled to have a clause in their rules giving a member a surrender value, in case of a member resigning or being excluded or expelled. Many members would like to leave the society on equitable terms—as it is at present they have to lose all they have paid. Members going abroad or leaving the trade are in the same position. Another point which I think deserves attention is that trade unions should be compelled to have their accounts periodically audited by a qualified accountant or a Government official from the Board of Trade, who should be empowered to report on any funds misapplied or used for purposes not in accordance with the registered rules. As an illustration, at the present time great efforts are being made to use these trade unions for political purposes, and levies are made to support certain Parliamentary candidates. It must be apparent to any one that a trade union is composed of men of opposite political opinions, but many will be compelled to subscribe to support those opposed to them; also it seems contrary to the original objects of trade unions. In the United Pattern Makers' Association the General Secretary dominates over the whole society. He has brought this about by a system of isolating the branches and doing everything he can to prevent inter-communication.

3754. Were you formerly a member of the United Pattern Makers' Association?—Yes.

3755. You are no longer so?—No.

3756. You have had a difference with them?—Yes.

3757. The cause of your difference was, that you charged the officials with a breach of the rules?—Yes, that was the origin in the first case.

3758. And they fined you for having done so?—They fined me for issuing a circular calling the society's attention to the matter.

3759. You sent a circular round to the members, saying there had been a breach or disregard of the rules, and for sending that circular, considering that they thought it was your second offence, they fined you?—Yes.

3760. Did you pay that fine?—Yes.

3761. What happened after that?—I issued another circular after that to explain that I had never had a first offence charged against me.

3762. And they treated that as a fresh offence did they?—They called that the third and excluded me.

3763. That is to say, for protesting that you had only committed one offence and not two, they declared you had committed a third offence?—Yes.

3764. What did you do upon that?—I went to the room one evening to tender some money, but orders had been sent from the executive that I was not to be allowed into the room and that no money was to be taken from me.

3765. Then you had been expelled?—I had been expelled.

3766. I suppose the expulsion meant a loss to you as a confiscation of your rights in the society?—Just so, because I had been paying for superannuation, sick, funeral and accident benefit, tool insurance and other things connected with the society.

3767. In fact, you had contributed for fourteen years, and if you had lived another six years as a member of the society you would have been entitled to a superannuation allowance of 7s. a week?—According to their rules.

3768. You have had no redress for that confiscation and expulsion?—Nothing whatever.

3769. Do you consider now that a member of a trade union ought to have a right to proceed in a law court against his union, if he considers he has a grievance against the union?—Yes, because the rules are no good as they are; when you join they ask if you agree to abide by the rules that have been presented to you previous to your joining and you say yes, and you have no claim under these rules. The rules are no good at all.

3770. Even supposing the rules were good, there might be some injustice done towards you, and now you have no legal redress; you think that members ought to have the power of obtaining legal redress?—Yes.

3771. With that view do you consider that the accounts of trade unions should be audited by some public authority?—Yes.

3772. Of course that would enable workmen who were members of the union to know whether their money had been properly used, and also whether they had any special personal claim on the union?—Yes.

3773. They would understand how they stood with regard to the union?—Yes; of course you know very little about it in any respect at the present time.

3774. (*Mr. Cohen.*) Can you appeal from the decision of the Secretary?—You can appeal.

3775. To a general meeting, I mean?—Yes, I have the rules here which state that point, but they overrode all that.

3776. Did you appeal to a general meeting?—I appealed to the branch and to the executive and to the general council.

3777. And they all decided against you?—Well, they never put my appeal before the general council; the general secretary suppressed it, and it never came before the council.

3778. That is a serious cause of complaint; the secretary did not do his duty in that case?—The general secretary wrote to the branch secretary saying: "I have received Liscombe's appeal which will be brought before the council; I have pigeonholed it until the meeting of that body" or something to that effect, but he never brought it before the council.

3779. According to the rules it ought to have been brought before the council?—Yes, but before that they disallowed my appeal to the branch.

3780. There would have been, however, in the proper course of things another appeal to the council would there not?—Yes.

3781. But the appeal was not brought to the notice of the council by the secretary?—Not at all.

3782. Could you leave with our secretary a copy of the rules?—Yes (*handing in the same*). Further than what I have said, the rule says that in the case of any charge, the member must send his evidence up to the general office (that is when you appeal to the executive) and the branch secretary has to send the evidence of the branch. I directed a letter to the executive at the registered address. It was returned by the General Secretary, with the remark "Wrongly addressed, the E.C. don't reside on these premises," although the members pay for these premises. I sent my letter of appeal to the General Secretary and he returned it back to me, again saying "I must send it through Branch Secretary." The rule to which I refer is Rule 30, Clause 3, which is as follows: "Any member of this Society or persons claiming on account of a member finding himself or themselves aggrieved, or having any complaint against the officers or members or who may be improperly excluded for arrears or for benefits improperly received, may appeal to the committee of his branch for redress, within four weeks of the date of such dispute, or from the date of his exclusion. All such appeals must be made in writing. If he or they are not satisfied an appeal may be made to the next summoned meeting of their branch, or if still unsatisfied another appeal may be made to the executive committee or the general council, such appeal to be given notice of to the branch within four weeks of the decision of the branch. The appellant to send his evidence in writing to the general secretary within seven days of such notice having been given, or not doing so the case not to receive any further consideration. The branch secretary to send to the general secretary within the same time the evidence and reason for the decision of the branch or to be fined half-a-crown."

3783. Now what I should like to know from you is this: supposing there were no irregularity and that the general secretary did his duty, that is to say supposing your application or your case was brought before the

Mr. A. O. Liscombe.
8 Dec. 1904.

Mr. A. C. Liscombe.
8 Dec. 1904. district council and afterwards before the general council, would you then have reason to complain of anything? Do you think it would be advisable for any member to be entitled to complain in a Court of Justice?—Yes, I am strongly of that view, because there is bias and you have enemies, and there are many people before whom your case goes, who are possibly wishing to injure you.

3784. I daresay you know what is called a "domestic forum," that is a court constituted by the members of

the Association: you do not think any such court is satisfactory?—Not as a final appeal.

3785. You think that every member of a trade union ought to be able to bring his complaint before a Court of Law?—Yes, before a stipendiary or something like that.

3786. (Chairman.) After he has exhausted the possibilities of getting redress from the Association?—Yes, because there is collusion and enmity and you do not get a just decision.

Mr. JOHN HEENAN called and examined.

Mr. John Heenan.
8 Dec. 1904. 3787. (Chairman.) You are a watchman on the River Thames?—Yes.

3788. Will you kindly explain what a watchman is? What are you employed to do?—To watch craft—barges.

3789. Who employs you?—The Thames Steam Tug and Lighterage Company.

3790. And you have to see that the barges are not injured by accident or misconduct?—Yes, or theft of any kind.

3791. You have sent to our Secretary a *précis* of the points on which you can give evidence; you will allow us to make use of it, of course?—Yes. It is as follows:—

The objection I have against the proposed Bills (*Vide Appendices, pp. 7 and 8*) is because I have been working on the River Thames for ten years or more, and I can testify to the bad effects of strikes, where I have been to work, when members of Trade Unions have been out on strike, and they have tried by their so-called peaceful pickets to prevent me from going to my employment, and on one occasion, as I was returning home from my work, while a strike was on, I was knocked down and kicked, and the result was I had one of my ribs fractured, and this is what the officials and members of unions call peaceful picketing. So I think I have grounds to ask for proper protection from being interfered with in any way by any one or more of the officials or members of any union.

I am at present employed by a firm which employs non-union labour on the River Thames, and they give any man, as they think fit, work without being interfered with or annoyed by any trade union, and I can say that the firm treats us in a very straightforward manner, much better than any of the firms that employ union men. So I think we as non-union men should have protection against being interfered with in any way, either at work or at our homes by any of the union officials or members. For if they were to try and prevent us from doing our lawful work, I think they should be held liable, the men by fines or imprisonment, and the unions by an action for damages. For if they were not liable we should have to be ruled by a lot of agitators, who only want strikes to fill their own pockets, and ruin the homes of many a family, and likewise ruin the trades and industries of the country at large.

If the Trade Disputes Bills were to become law, they would affect me and other men who are free labour men, or what the unions term "blacklegs," in the following way:—That is by reason of members or officials of trade unions coming at or near the place where I reside, or where I work. For I think every man should be at liberty to work where he likes, and to agree with his employers as regards his wages, without being annoyed or intimidated by so-called pickets. Whether they should consist of one or more men it should not be allowed. And as to the amendment of the Law of Conspiracy, if it was legal, as proposed by the Bills, a non-union man would have no protection against the unions or their officials or members. For if they prevent me from obtaining my living in a lawful way for myself and family, I think that the unions should be liable to be sued for the amount at which any man is at a loss through the officials or members of any trade union.

3792. You have suffered, I think, from the violence of unionists on strike?—Yes, when the lightermen were on strike.

3793. At present you are in the employment of a firm which employs non-unionists?—Yes.

3794. Can the unionists interfere with you in any way?—At present they cannot—it is only when these strikes are on.

3795. How can they interfere with you during a strike any more than now?—The unions, when a strike is on, appoint men as pickets and these pickets molest any man (as they did me) who goes to his work as usual as if there was no strike. They knocked me down and fractured my rib.

3796. If they did that they would be liable to the law as it stands?—Yes.

3797. So that there is no necessity for altering the law in that respect. Is there necessity for altering the law in any other respect that you can suggest?

3798. (Mr. Cohen.) Would you like picketing to be illegal?—It ought not to be legal in any way for the sake of any man who uses his own discretion, whether he likes to go to his work or not.

3799. If picketing amounting to unlawful intimidation were made illegal you would be sufficiently protected, would you not?—Yes.

3800. (Chairman.) Supposing the strikers commit some unlawful act whatever it may be, say a breach of contract, or they incite to breach of contract or intimidation, and that they have done this at the instigation of their union, would you say that the funds of the union should be answerable for that?—I should think they ought to be.

3801. There is no reason why trade unions should be exempt from making good the consequences of their own unlawful acts?—Say, for instance, that a trade dispute is on, and I do not like to go out with these other men on strike, these men will make it their duty, through their officials, to prevent me working with them after the strike is over; they will see that I do not get work in any way if they can prevent me, unless the firm entirely employs non-union labour. The secretaries and officials of these unions will prevent me getting work; there are union firms in the Royal Albert Dock at the present time, and if they were to see me working with them they would call their men out of the ships and prevent me going to work.

3802. There are two questions there, and one is what we have just dealt with; viz., supposing the union commits any unlawful act through its agents, you think the union funds ought to be answerable?—They ought to be.

3803. The other question is: If the unionists endeavour to prevent your getting employment, by threatening your employer that they will leave him except he discharges you, do you think that ought to be actionable in a Court of Justice?—Yes, because the employer ought to be open to employ whoever he likes.

3804. Supposing the act of interference of the unionists consists simply in their telling him, "If you employ Heenan we will not work for you," do you think that ought to be actionable?—It ought.

3805. Is there anything else you wish to say?—No. Of course you can understand the way the union treat outside men; two or three of them are told off for pickets and there is no such thing as they call legal and peaceful picketing.

3806. I will just ask you this question:—What is your opinion about peaceful picketing?—If they would carry it out as such it would be all right, but they do not.

3807. Have you ever known any peaceful picketing?—Not yet, and I have been a non-society man now for ten years and I have been through three different strikes.

TWENTY-FOURTH DAY.

Wednesday, 14th December, 1904.

PRESENT:

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B., (*in the Chair*):

ARTHUR COHEN, Esq., K.C.

| SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*):

Mr. EDWARD WATSON called and examined.

3808. (*Chairman.*) You are one of the Managing Directors of the Dublin Steam Packet Company?—Yes.

3809. You have sent us a *précis* of the evidence which you are prepared to give; I hope you will allow us to use that for our proceedings?—Certainly. It is as follows:—

EDWARD WATSON:

Is one of the managing directors of the City of Dublin Steam Packet Company. Has held that position for over twenty years.

He is a director of the British and Irish Steam Packet Company.

Also a member of the City of Dublin Junction Railways Committee, and a member of the Dublin Local Marine Board.

He has taken a prominent part in dealing with strikes which have taken place in Dublin, London, and Liverpool, five of which were strikes of dock labourers.

The last of these strikes was in 1899.

In every one of these strikes no question of wages was involved. In every instance the object of the strikes was an attempt on the part of the leaders of the workmen to obtain control of the business.

In every case that attempt failed, and the result of the strike was that those who struck lost their employment.

Details of each strike can be given.

Witness has read the cases of *Lyons v. Wilkins* and others.

He has read the letter of the 5th May, 1903, written by a Mr. S. Woods. (*Vide Appendices, p. 9, and p. 229 post*). As regards this statement as to the position of employers under the law as it at present stands, as compared with that of trade unionists, witness would say from his experience that what is euphoniously termed "peaceful persuasion" does not exist. In his experience violent means have always been adopted.

As an employer all he has done has been to take on men who are willing to work.

As regards the points Nos. II. and III., as far as witness's experience goes, he and those with whom he has associated never do anything of the kind.

With reference to the trades unions' alleged grievances as mentioned in Mr. Wood's letter, and referred to in the Trades Unions Congress demands, witness would say that picketing would not be effective if it were peaceful, and it never has been peaceable, and had the case of *Lyons v. Wilkins* been decided before strikes with which witness was concerned had taken place, in his opinion those strikes would have been much more easily dealt with, but as far as the result of each strike was concerned, from the employers' point of view, the result would have been the same, and those who have benefited by this legal decision would, in witness's opinion, have been the men who struck, the majority of whom, he believes, would not have struck and would have retained their situations.

Employers have money and education and should be able to deal with a strike in an efficient manner.

If employers conduct their business properly they will never allow a *bona fide* cause of grievance to exist, or act otherwise than justly, but they must resist any attempt on the part of trades unionists to obtain the mastery.

From witness's experience he is able to say that in a strike a very large proportion of those who strike do so mainly from timidity, fearing personal injury to themselves, and the witness considers the decision in the case of *Lyons*

v. Wilkins a real benefit to the working classes, and that in their interests, far more than that of the employers, the decision should not be interfered with.

There should, in witness's opinion, be free trade in labour. A strike can never be effective when this is the case.

As regards the claim: That it should be legal for men to withdraw their labour other than for breach of contract. At present there is no legislation which enables an employer, as he formerly could, to enter into a binding agreement with his workmen which he can enforce, while workpeople can compel the employer to carry out his agreement with them, he being a person of substance, they having no means he is practically without any remedy should they fail to keep their contract with him.

The law of conspiracy does not require any alteration, and it is only right and reasonable, as an individual is responsible for his actions, that a number of individuals acting together should be responsible for theirs.

The witness understands that the recent legal decisions have not altered the law but enunciated what the law is, and thereby secure uniformity of practice in all places.

It has always been admittedly illegal to act otherwise than peaceably, but in witness's experience different authorities in different places took different views as to what was peaceable and what was not.

In the various strikes witness had to do with, a great deal of what is termed "peaceful" persuasion was attempted. In the mind of the witness the persuasion he saw was never peaceful, but the authorities in some places, London for example, thought otherwise, and work became impossible. If action such as witness saw was legalised no business could be carried on, and of this witness gives an instance.

Owing, in the opinion of witness, to the weakness of the London Dock Company, and want of firmness shown by the authorities, a great strike occurred, and was successful, and the Dockers' Union became masters of the situation. The company, of which witness is a director, raised the wages the same time as the other companies, and there was no dispute of any kind between them and their men, who were earning about 40s. a week.

In the month of August, 1890, the Dockers' Union, in Dublin, brought out the men, working there, on strike; there was really no grievance and labour was plentiful. The Union was not a strong one and the company had no difficulty in carrying on their business. In the month of September the witness was summoned to London, as the Union there had ordered the work to stop. When witness reached London he found that by "peaceful persuasion," or, as he would term it, terrorism, the Union had caused an entire ship's crew to desert. The ship was at anchor in the river, full of cargo, with only the officers on board. In the circumstances the witness inserted an advertisement and succeeded in securing the services of a number of men who were anxious to be employed. He had hardly got them on board the vessel when the "peaceful persuasion" began, the wharf was covered with a yelling mob, and a crowd of "peaceful persuaders" were allowed to get on board the ship moored close to that on which witness was, and act in the most menacing way. Witness had policemen beside him; they said they could not interfere unless actual physical violence was used; their views of what "peaceful persuasion"

Mr. Edward
Watson.
14 Dec. 1904.

Mr. Edward Watson.
14 Dec. 1904.

meant would seem to be identical with those of the union officials. Their action was successful in scaring away many of the men whom witness had engaged and who were anxious for work.

In the circumstances of the case he decided to get all hands under cover and moved the vessel into another part of the river, distant from other vessels, and eventually succeeded in getting the cargo into lighters. Witness felt then it would be unwise to attempt anything further. He had the ship sent to Southampton and made it the port of discharge and arrival instead of London.

The net result of the "peaceful persuasion" was that the company was put to a great deal of expense, an entire ship's crew lost their situations, and the dockers ordinarily employed by the company were deprived of 40s. a week for a period of several weeks, when the matter was settled, and the company asked to come back to London.

It is clear to witness that if so-called "peaceful persuasion" was legalised business could not be carried on.

At the time of this strike the question of liability of a trade union to be made to pay damages in consequence of the acts of their officials had not been decided, and witness feels that the decision on the subject is a most salutary one and certain to have the effect of checking the actions of unions in bringing about strikes.

In his opinion, if the law was altered on this point matters would be even worse than before. Hitherto there has been a doubt, but if the legal decision now existing were reversed by a statute there can be no doubt the union officials would be even more reckless than they formerly were.

Many years since strikes may have been brought about by the unfair action of employers; such is not the case now. It seems to the witness only reasonable that if people associate as a trade union they should be liable for their actions, just as those are who form themselves into a company for theirs.

Trade unions, and especially unions of unskilled labourers, have, as far as the witness's experience goes, a most injurious effect on the carrying on of shipping business, and nothing, in his opinion, should be done to weaken the decision of the Court. He does not hesitate to say the four Bills (*Vide Appendices, pp. 7 and 8*) with reference to trade disputes which were introduced in the past session are Bills introduced solely in the interest of agitators and not in the interest either of employers or employees.

3810. I notice that in the middle of the first page of your *précis* you say (*Vide p. 227, col. 1, ante*): "In every one of these strikes no question of wages was involved. In every instance the object of the strikes was an attempt on the part of the leaders of the workmen to obtain control of the business." I do not quite understand what you mean by that?—Ordinarily speaking a strike is for some object, such as to get increased wages, but in all the cases I have had experience of, the strikes were got up by the union to get absolute control, in fact to dictate to the employers what was to be done. Perhaps I could amplify and explain that statement. I have made a special note on the first strike I referred to, and on this particular point I say, "In every case that attempt failed, and the result of the strike was that those who struck lost their employment. Details of each strike can be given."

3811. Can you give us the information very shortly?—In the year 1886 there was an attempt, I think, to get up a sort of political organisation in Dublin, and a union was formed called Emmett's Union in the spring of that year. There were a number of smaller companies in Dublin who employed men by the day, but in my case and the case of the North Western, the two large companies in Dublin, we employed men by the week. There were no grievances I heard of in the case of these porters or dockers who were employed, and the smaller companies after some time agreed to employ none but union men. Then as far as my company was concerned I was approached and requested to employ none but union men. I was not asked to consider any question of wages at all, and I objected to any dealings at all with this union and refused to have them. After some weeks the men employed by my company requested me to see a deputation from that union, which I was willing to do. My reason for agreeing was that men always seem to have the idea that they are singled out

if any particular men come forward; they have no confidence and perhaps thought that I should act unfairly, which I would not do, of course. I saw these representatives, the officials of this union, and they told me that what they wanted was that we should only employ union men. I told them I could not agree to that, that my function was to decide who were the proper men to be employed in the company, and that I could not possibly agree as far as I was concerned, but that I would refer the matter to my colleagues. I did so, and my co-directors took the same view as I did, that while we were not going to raise any objections to men belonging to a union if they chose, we could not agree to be bound in any way by union rules and we would employ what men we pleased. I then, as arranged, on the following day, saw the whole of our men and told them what had been the decision of the board, and I said that that being so there need be no further dispute between us, and if they did not like these conditions they were perfectly free to leave the employment. The men told me that they were very sorry that they had given so much trouble and that the whole matter was at an end, that there would be no further difficulty of any kind and they would all continue to work for the company without the slightest trouble. On the following day at 12 o'clock, however, the union officials came down and they ordered the men to leave their work. The men were very reluctant; I think they were rather well-disposed, but as I can tell you from actual knowledge it was nothing but terror which induced them to go. As they were leaving I told them, "If you leave now you never come back as long as I am here; I warn you not to go." There were one or two who were not members of the union and no question was raised about them staying, but there was one individual member of the union (and it always made an impression on me) who had been in the company's employment for many years and I felt for him and said I would not let him go, so I took him by the arm and forcibly drew him out of the crowd and kept him. That man was so frightened that he nearly fainted, but as a matter of fact I was able to protect him and he remained, and he was the only one of the whole party who did not lose his employment. The object of this union, it appeared to me, was to be in a position to dictate to us: "We are the people who shall be employed and nobody else shall be employed," and that appeared to be the whole object of the strike.

3812. I understand that you consider that a strike for a rise of wages is all fair and proper, but that a strike, we will say, against the employment of non-union men is an attempt to give the workmen control over the business of the employer?—I think so. I have not expressed any opinion as to the propriety of a strike for higher wages, and I only say that I have not had any experience of it. I would say, however, just in the same way, that I think it would be wholly illegitimate to strike for higher wages and to try to coerce men who were willing to work for lower wages, to stop from working.

3813. The interest of the employer is, of course, to carry on his employment successfully?—Yes.

3814. And the interest of the workmen is to earn their livelihood in a satisfactory mode of life?—Yes.

3815. Do you not think the workmen have as good a right to protect themselves with respect to their interest as workmen as the employers have to protect their interest?—I think they have exactly the same right; to my mind their interests are identical. I think any employer acts contrary to his own interests if he does not treat his workmen perfectly fairly.

3816. That is not quite my point; no doubt it is the duty and I may say the wish of employers to treat their men fairly, but the question is what the workmen have the right to do in self-protection. Therefore, whatever right an employer has to protect his interest in the business, that the workmen have to protect their interest?—I think so.

3817. Whenever there is a strike or a dispute, would you not say that the master is trying to compel the men to carry on as he wishes?—I should not say so.

3818. Oh yes. Take the simple question of wages: supposing the employer says: "You shall only have 25s. instead of 28s. and there is a strike, his object is to compel the men to accept 25s. and their object is to com-

pel him to give 28s. ?—I do not know that I quite follow you there; he says, "I will not pay more than 25s. and, of course, if you do not choose to work for me I cannot help it."

3819. Yes, and they say: "We will not work unless you give us 28s." ?—Yes, and so far as he and these men are concerned they part company.

3820. But is not each trying to force the other when a strike takes place—every strike that happens ?—I do not know; the employer says: "I can get plenty of labour at 25s."

3821. Are not the men dictating to the master as far as they can by saying: "You shall give us 28s." ?—Yes.

3822. And the masters are endeavouring to dictate to the men by saying: "You shall accept 25s." ?—"We will not give you more than 25s." They are not dictating to these men, and if these men choose to get work elsewhere they can.

3823. And so in the case of the men; they say: "We will not work for 25s.," but that does not force the master to give them 28s., and the master is free to go and get other persons for 25s. if he likes ?—Quite so, and I think they are on an equality. The master says: "I will not give more to you," and the men say: "We will not take less from you."

3824. From that let us come to this question of the non-unionists: I suppose you admit that the unionists have an interest, or at all events think they have got a good interest in non-unionists being absent ?—I suppose they think it is to their interest that there should be no non-unionists.

3825. And there is some good reason for their thinking so from their point of view ?—I do not know that there is any good reason; there is a reason.

3826. As you conceded just now that a workman has as much right to protect himself or to urge his own interests as an employer, do you think that a workman has a right to an opinion as to whom he will work with and whom he will not work with ?—I think the workman has a perfect right to say whom he will work with and whom he will not work with.

3827. Then how is it that that means an attempt on the part of the leaders of the workmen to obtain control of the business ?—But I do not think that is justified.

3828. The two things are the same ?—No, I do not quite follow you there. As I understand, your position is this, that the workman has a perfect right to say: "I require such wages," and the employer has a perfect right to say: "I will not give more than such wages;" but I do not think an employer has any right to interfere with his workpeople, and I do not think the workpeople have any right to interfere with him.

3829. The word "interference" is quite vague, and I do not understand it: when workmen strike for any purpose, we will say an increase of wages, it is an attempt to force the hands of the master, is it not ?—It just depends upon circumstances.

3830. In every case ?—If there are not more work people to be employed than union men, of course it is.

3831. The interference that we are speaking of now is the pressure which is put upon the master arising from the fact that he cannot get other employees ?—Yes; take, for instance, a skilled trade like the goldsmith's trade, where there are only a number of skilled men employed. I suppose if they said: "We shall not work except for certain wages," the master has no choice but to give it to them, but in the case of these ordinary strikes which cause so much trouble of unskilled labour any number of workmen can be obtained, and the fact is that these unionists prevent men who are perfectly willing to work from working.

3832. How do they prevent them ?—By frightening them.

3833. Perhaps all our questioning and answering has been of no purpose, because I have assumed throughout that there has been no illegal action. Is not a request followed, if necessary, by a strike by the workmen for any advantage whatever, whether it is an advantage in wages, or whether it is a diminution of hours, or whether it is for

the exclusion of non-unionists—whatever the point is—Mr. Edward Watson.
an attempt so far of the workmen to obtain control of the master's business ?—I do not think so, because it simply comes to this, that the men say: "We do not think our wages are sufficient, and we request you to give us more." I do not think there is any objection to that, and I think it is a fair request. 14 Dec. 1904.

3834. (Mr. Cohen.) Do you not mean there that it was an attempt in an improper and illegal manner on the part of the leaders of the workmen to obtain control of the business ?—I would put it in that way.

3835. And that is what you really meant ?—Yes. If you put it to me in this way—Is an action which is perfectly fair and reasonable on the part of the leaders of the union to be objected to ? I say no.

3836. (Chairman.) Do you think if they act unreasonably that should be good ground for an action or for a criminal prosecution ?—I think they should certainly be restrained from acting unreasonably.

3837. Would you like the law to prevent you from acting unreasonably ?—I should not see any objection.

3838. Should all of us be run into a court of law because we act unreasonably ?—I do not think anybody is justified in acting unreasonably, and when I say that I think I had better make it clear what I mean. I mean to quote what Lord Lindley says: "You cannot make a strike effective without doing something more than lawful." That is my view, and I cannot put it clearer than that.

3839. We should be agreed that persons who do unlawful acts should be restrained and be liable to an action ?—Quite so.

3840. But I put to you this question: Is a thing necessarily unlawful because it is unreasonable ?—I am not prepared to say; it depends on how far it may go. If I have understood your question rightly, I understand your view is, and I entirely agree with it, that an employer should be in no better position towards those he employs than the employed are to him. I think there should be perfect equality or freedom, and if an employer is prevented from combining unreasonably or unlawfully, I think the workmen ought to be prevented in the same way. I do not claim any advantage. I am in this position, that I never was in any combination of employers. I never combined with anyone; I have always been alone in any strike I have had to do with, and I never sought to gain any advantage from any combination.

3841. (Mr. Cohen.) Taking that passage in your *precis*, to which reference has already been made, would it be expressing your opinion accurately if these words were added, "An attempt in an unlawful manner on the part of the leaders of the workmen to obtain control of the business should be actionable and punishable" ?—I do not think I could put these words in.

3842. (Chairman.) Have you got Mr. Woods' letter which you refer to in your *precis* ?—Yes. (A copy of the letter was handed in, and is as follows:—

COPY OF A LETTER ADDRESSED TO MEMBERS OF PARLIAMENT BY THE TRADES UNION CONGRESS PARLIAMENTARY COMMITTEE.

Albany Buildings, 47 Victoria Street,
Westminster, London, S.W.
5th May, 1903.

Re Trades Dispute Bill.

DEAR SIR,—On Friday, May the 8th, a Bill entitled "The Trades Dispute Bill" is down for second reading in the House of Commons in the name of Mr. D. J. Shackleton, M.P., and others.

I am instructed by the Parliamentary Committee of the Trades Union Congress, representing over a million and-a-half working men and women, to make a respectful and earnest appeal to you to do them the honour of supporting Mr. Shackleton, and voting for the Bill on the occasion of its second reading.

As you are doubtless aware, the present difficulty in which trade unions are placed is the outcome of certain judgments which have been given against them in the law courts, which entirely alter the law in what has been understood to be its meaning for the last thirty years.

Mr. Edmond Watson. The law as it stood has operated fairly and peacefully during a long period of years between employers and employed, but if it is to remain as lately interpreted, it is certain that litigation, friction, and bad feeling will be the outcome.

14 Dec. 1904.

The relative position between trade unions and employers is shown by the following comparisons:—

Trade Unionists' Position now under the Law.

1. It is illegal for trade unionists during a dispute to peacefully persuade men not to enter the employment of a firm in conflict with the Union.

2. It is illegal for trade unionists to issue lists of unfair firms with a view to preventing men from working for such firms, or preventing other firms from trading with them.

3. It is illegal for trade unionists to strike in order to compel men to join a union.

Employers' Position now under the Law.

1. Employers can, and do, persuade men to enter their employment during a strike or lock-out, advertise for men and send out agents to procure them.

2. Employers can, and do, issue black lists, and through the medium of the character note system they constantly prevent men getting employment with firms who would otherwise be willing to employ them.

3. Employers constantly discharge men simply because they are members of a trade union.

Trade Union Grievances.

(1.) Peaceable picketing is declared illegal (*Lyons v. Wilkins*).

(2.) Acts when done by one person are legal; when done by combination with others are actionable at common law as a conspiracy.

(3.) As a result of the two grievances above mentioned of judicial interpretations of the law, trade union funds are placed very largely at the mercy of the employers.

We make this appeal to you for the following reasons:—

(1.) We seek this proposed change of the law on the common ground of justice and equality before the law of employers and employed.

(2.) We want reasonable facilities for picketing during labour disputes, and these facilities defined in clear phraseology.

(3.) We respectfully desire on behalf of trade unions that under the Conspiracy Act the same rights shall be extended to actions done by persons in combination as to acts done by a single person.

We earnestly solicit your support and vote on behalf of Mr. Shackleton's Bill.—I am, on behalf of the Parliamentary Committee,

Yours faithfully,

(Signed) S. WOODS.

(Secretary).

3843. As to picketing and peaceful persuasion, you refer to the case of *Lyons v. Wilkins*. Do you think that has had the effect of stopping picketing?—I think ever since that decision, as far as I am concerned in Liverpool, London and Dublin, everything has gone on very quietly.

3844. You would not go so far as to say that there is no more picketing?—I confine myself to what I really know. I simply say that I have business in Dublin, Liverpool and London, and as a matter of fact since then there has been no trouble and everything has gone on quite smoothly.

3845. (Mr. Cohen.) Since what time?—The last strike I had to do with was in 1896, and I think the question was settled about that time, and everything has gone on quite smoothly ever since.

3846. But the same point was decided in *Lyons v. Wilkins* in 1893, I think?—I think not; I think it was an appeal case in the House of Lords.

3847. It has never gone to the House of Lords?—It was an appeal case.

3848. (Chairman.) You are aware that picketing for the purpose of obtaining and communicating information is allowed by the law at the present time?—Quite so.

3849. Are you in favour of the permission to picket or

attend a house for the purpose of obtaining and communicating information being continued?—I think picketing should not be allowed at all, and I think the more restricted it is the better.

3850. Are you in favour of the abolition of the qualification under which attending for the purpose of obtaining and communicating information is not to be considered unlawful?—I think it is better not to exist: I think it is only used to frighten them and I do not think it is ever used for a legitimate purpose.

3851. I see that upon page 2 of your *précis* (*Vide p. 227, col. 2 ante*) you make this remark: "At present there is no legislation which enables an employer, as he formerly could, to enter into a binding agreement with his workmen which he can enforce." I presume by those words you allude to The Master and Servant Act, 1867, under which the master could in case of breach of contract by the man take criminal proceedings against him?—Yes.

3852. You do not propose that that law should be revived?—I am not asked any question upon that, of course.

3853. In your statement you speak of the want of firmness shown by the authorities: are you referring to the police, the Home Office, or the magistrates?—I think the police especially; I only speak from my own actual experience. I may say that having been at the three ports—London, Liverpool and Dublin—I have gained a good deal of knowledge of it, and I may tell you, taking that strike in Dublin, that for one week I was every day never less than fourteen hours at work and two days I was eighteen hours, in fact I had charge of the whole thing. Our quays in Dublin have a public road running between the quays and the stores where the goods are, whereas in Liverpool the docks were entirely between walls and under the control of the authorities. The police authorities in Dublin and Liverpool protected us very efficiently, but in London when I was myself standing on the deck of a ship (and I made a special note of it) a policeman declined to interfere; he told me he could not interfere unless he actually saw physical violence employed. Now in Liverpool, on the contrary, the police refused to allow the agitators to come inside the dock walls, and it made all the difference. In London the police seemed to me, I could not say why, actually to allow, in this case I had under notice, the men to be frightened.

3854. Are you satisfied with the action of the police authorities at the present time in dealing with strikes?—As far as my experience in Liverpool and Dublin is concerned I am perfectly satisfied.

3855. Are you satisfied also with the action of the magistrates in dealing with cases?—We had very few cases, and in Liverpool and Dublin I had no fault to find.

3856. You make reference to the Taff Vale decision in your *précis*, and you say that you feel that it is a most salutary one. You think the Taff Vale decision is right in principle?—I do.

3857. And then you add, "And it is certain to have the effect of checking the action of the unions in bringing about strikes" (*Vide p. 228, col. 1 ante*)?—Yes.

3858. Where do you find that in the Taff Vale decision?—I think the unions being made responsible, and taking it out of their funds, will make them hesitate.

3859. Hesitate to do any illegal act, but bringing about a strike is not an illegal act?—I think they will not bring about a strike unless they think it will be successful; I think they will hesitate to do anything of the kind. The union in one of these strikes brought three actions against me and I did not mind that, but my company had to pay the costs of these actions, and I suppose now they would not have to do that.

3860. As a fact, has the number of strikes diminished since the Taff Vale decision?—For nearly five years in the three ports I am concerned with, Liverpool, London and Dublin, I have had no trouble.

3861. (Mr. Cohen.) Assuming that Trade Union funds are held liable for any illegal acts done by the executive or the officers of the Trade Union (that is now the law, and we will assume that it will continue to be the law) and that Trade Union funds are liable in case the Trade Union or its

officials cause or produce any illegal intimidation, do you not think nearly everything is done that could be done? I think that is all you want?—We are not asking anything.

3862. But that is all that seems necessary?—As far as I can see, you put it very clearly, and I think that is all that is required.

3863. You think workmen ought not to be deterred by threats or intimidation from taking service under any employer?—Yes.

3864. And the same with regard to picketing. You object to picketing because picketing is intended or calculated to produce intimidation and riots?—Yes.

3865. That is your real objection to picketing, is it not?—Yes.

3866. Now one word as to what you have said about what took place in the year 1886. What was that union of which you spoke? What was the name of it?—The Emmett Porters' Union.

3867. Had that union more or less a political character?—I think it had.

3868. And Ireland was then in a disturbed state?—Yes.

3869. So that it would be dangerous, would it not, to draw any inference from what was done by that union, organised and led as it was?—I do not know; I think the same in principle has been done since. We have had another occasion since.

3870. Which was the last occasion?—In 1899, but I do not think there was anything political then. I may say that I think the beating the union got in 1886 kept things quiet in Ireland for a long time.

3871. Let us go from 1886 to 1899; there was a strike then?—The first strike was in 1886, in Dublin; the next strike was in Liverpool, in 1889; then the next was London, in 1890; and then we got on very quietly until 1899, when Liverpool struck, and when they got me over to Liverpool, Dublin struck in my absence. That made up the five.

3872. Did you give any evidence before the Royal Commission on Labour?—No, I was not asked.

3873. Did anyone on behalf of your company give evidence before that Commission?—No.

3874. (*Mr. Sidney Webb.*) Without attempting to go over the ground again. I want to ask a question as to any suggestion you can make for getting out of the present situation. I see you suggest in the last page of your memorandum that if people associate as a Trade Union they should be liable for their actions just as those are who form themselves into a company?—Yes.

3875. That is to say, that you suggest that combinations of workmen and combinations of other people should be put as far as the law is concerned on an equal footing?—I think they ought.

3876. That is to say that, for instance, if a combination of workmen cause damage by tort to any person they should be liable for the consequences of their actions?—I think so.

3877. Do you put any limitation to that liability?—I think the employer should be treated in the same way; if I join an association of employers, and by so doing cause injury to workpeople, I think I should be liable for it.

3878. And its liability for tortious acts ought to be the same in both cases?—That is right; I think if a number of employers joined together and intimidated people into working for them they should be punished.

3879. But a combination is hardly in question; a single employer is liable for his tortious acts as a single workman would be?—Yes.

3880. And you suggest that a combination of workmen should be, at any rate, equally liable?—I think there ought to be equality.

3881. Has it ever occurred to you that it might be suggested that that liability might be a very onerous one—that, for instance, if your coachman runs into another vehicle you have to pay for the damage?—Yes.

3882. And that liability might be far in excess of, let us say, the degree of fault or negligence?—I do not know, but I run that risk, and if I choose to keep a carriage I know my responsibility.

3883. And you do not see any ground for limiting the liability beyond, of course, the amount of the damage created?—I do not think it should go beyond the damage created; I do not see how it could. *Mr. Edward Watson.* 14 Dec. 1904

3884. But you think it ought to go to the full extent of the damage created?—My feeling is that everybody should be liable for his acts.

3885. Is it the case that if your company has a ship which runs into another ship and does damage, you are liable, if it occurs negligently, for the damage caused?—Yes.

3886. Are you liable to the full extent of the damage?—There is a limitation.

3887. There is a limitation in the case of owners of steamships for the damage caused by their tortious acts?—Not by their tortious acts, but by the acts of their servants. Under the Merchant Shipping Act there is a limitation of liability—it is a very old affair, and in ancient times a ship was liable for her value, that is to say, if a ship ran into another, her limitation of liability was her value, and, consequently, it was an inducement to have inferior ships, but when the Merchant Shipping Act of 1854 was passed it made the limitation £15 per ton gross, and that was £8 for goods and not more than £7 additional for life. That made limitation a liability.

3888. In that case the limitation of the employer for what we will call tort is limited?—It is limited.

3889. (*Mr. Cohen.*) Limited by Statute?—Yes.

3890. The common law was unlimited, and it was limited by Statute?—Yes.

3891. (*Mr. Sidney Webb.*) Would not that be a possible precedent for limitation in the case of trade unions?—I do not know, because if I am a shipowner, and if it is through my fault or privity that the damage has occurred the limitation goes.

3892. But, at any rate, as regards the limitation for the acts of your agents, that you think is a reasonable rule?—Yes, in the case of ships Parliament thought it so.

3893. And you think so, too?—It seems to me not to make much difference, it is only a question of insurance.

3894. But still it makes a difference in some cases, does it not, where persons who have been injured by collision have been unable to recover the compensation awarded to them by law? You will remember the case of the "Stella" belonging to the London and South Western Railway Company?—Yes.

3895. You know that although the South Western Company by its agents' tortious acts caused a very large amount of damage, yet the company was not required to pay more than a very small proportion of the amount of the assessed damage?—I know that, but I think there is one difference, if I may say so, at sea compared with the rule on land, and that is that the proper course is for everybody to cover himself by insurance.

3896. At any rate, you do not suggest that the liability of shipowners for the acts of their servants should be made unlimited?—No, I do not think so.

3897. You very naturally and reasonably urge that the combinations of workmen should, in respect of their liability, be put on an equality with the combinations of other persons?—I think it would seem fair.

3898. Would you be prepared to extend to such combinations the same privileges that the law extends to combinations of employers?—I think there should be equality.

3899. That is to say, you would not wish to put trade unions under any special disability that combinations of employers were not subject to?—I do not think so.

3900. One other point only, and that is with regard to the law. Without raising the question of altering the law, it has been suggested to us that it is a great inconvenience that the law should be so obscure. Do you think there is anything in that?—I do not think the law is obscure; in fact, it seems to me that that case of *Lyons v. Wilkins* only enunciated as a decision what was known to be the law before.

3901. Surely since that time various judges have expressed themselves, in the course of their judgments, in ways which are not at first sight at any rate consistent with each other?—Not that I am aware of.

Mr. Edward Watson. 3902. At any rate, if there are such conflicting statements of the judges and if there is any doubt upon the law you think it would be of advantage to have it clear?—I do not like to deal with a hypothetical case, but as far as I understand the law it is perfectly clear.

3903. You find the law perfectly clear?—Yes, and there seems to be no difficulty about it.

3904. If you find the law clear and your workmen do not find the law clear, that would seem a *prima facie* case for endeavouring to make it clear, would it not?—I do not think so. I have known of no case where there has been any doubt on the law.

3905. You have no difficulty in coming to a decision as to what the law now is on these points?—I would like to say that as far as I am concerned I have no difficulty, and I think the people who have suffered up to the present time are the workpeople.

3906. Pardon me, that is not my point; the point is that complaints have been made that the law is obscure, and that it has not been possible to ascertain what the law exactly does allow and what it prohibits on all these various points?—I am not aware of that.

3907. You have found the law quite clear?—I never heard that until now.

3908. My point is whether you have found the law quite clear or not?—I have had nothing to do with the law in the cases.

3909. You are not aware what the law is?—Yes. I know the decisions in these cases; I have read all these cases carefully through and I think the law is perfectly clear.

3910. You think the state of the law at this moment is quite clear?—Yes.

Mr. JOHN INGLIS, LL.D., called and examined.

Mr. John Inglis, LL.D. 3911. (Chairman.) I have in my hand a *precis* of the evidence which you are prepared to give to us; I hope you have no objection to our making use of this as part of our proceedings?—I have no objection.

The Statement is as follows :

The Shipbuilding Employers' Federation is a Federation of local associations, comprising practically all the shipbuilders of the United Kingdom, numbering eighty-eight firms or companies, paying annually in wages to workmen on an average £8,000,000.

It is the unanimous opinion of the Federation I represent that if the Bills (*Vide Appendices, pp. 7 and 8*)—copies of which were sent with your circular of 4th August, 1904—were to become law, shipbuilders would be very seriously prejudiced in their business.

(1) The shipbuilding employers do not object to workmen belonging to a trade union. Both the Federation and the local associations of which it is composed constantly meet with the various trade unions whose members we employ, and agreements are made from time to time between these parties, both for long and short periods.

Both the Federation and the local associations have endeavoured for many years by arrangements between the parties interested to minimise, if not prevent, disputes.

When a strike or lock-out occurs, we consider that picketing, even as at present allowed by the law, is unnecessary, and gives opportunity for breaches of the peace or unlawful interference with the rights and liberties of workmen.

If the only lawful object of picketing is the giving of information there are many ways, in themselves unobjectionable, by which information can be communicated.

With respect to the proposal in the Bills to legalise picketing by any number of persons "for the purpose of peacefully persuading any person to work or abstain from working," a single individual may not consider it a menace if another single individual, unconnected with any organisation, speaks to him even in a threatening manner; but a single individual is cowed by force of numbers morally and physically, even if the numbers commit no overt act.

A serious aspect of picketing is that it affords opportunity to persons, other than those who are employed at the place where the dispute exists, to congregate. These outsiders are often more numerous than the actual strikers, and indulge in a great deal of horseplay. Further, the attendance of pickets at the yard gates constitutes obstruction and annoyance, and sometimes danger, to the other workmen, including trade unionists, who may not be concerned in the strike, and who, consequently, continue at work.

It is well known that, even under the law as at present constituted, picketing has exceeded peaceful bounds.

With regard to the employment of non-union men, there has not, as the result of recent legal decisions, been any complete withdrawal upon the part of trade unions of their policy of doing all they can to prevent the employment of non-union men. If the employment of non-union men were to bring about a strike to enforce their dismissal, the law gives the right to a non-union workman to sue a trade union or the fellow-workmen preventing him from getting employment, that is from earning his living; yet the process is cumbersome and costly, and if even this remedy is taken away, the workman may, with-

out recourse on anyone, be prevented from earning his living. Trade unions, or, at any rate, members of trade unions, have been known to make demands for the dismissal of men who formerly belonged to the trade union, but who had got into arrears with their subscriptions.

Trade unions not only prevent non-union workmen from getting employment, but many instances can be given where they attempt to prevent the employment of other trade unionists.

(2.) With respect to Section 2 of the Bills, by which it is proposed to relieve from an action for conspiracy any persons who combine to do an act which may not be the subject of an action when done by one person, a single individual may sit on one's doorstep without inspiring fear, but a crowd before one's door would constitute a private and public nuisance—an infringement of one's right of social liberty and comfort.

(3.) With respect to Section 3 in Mr. Paulton's Bill, (*Vide Appendices, p. 7*), viz:—

"An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid," and Section 3 of Sir Charles Dilke's Bill (*Vide Appendices, p. 8*), viz:—

"An action shall not be brought against a trade union or against any person or persons representing the members of a trade union in his or their representative capacity,"

we consider such a proposal wholly indefensible.

The above-named sections, if they became law, would place in the hands of wealthy bodies and their agents a power such as has never been possessed by any person or number of persons in this country at any time; power to do any act in contemplation or furtherance of a trade dispute without pecuniary responsibility for the wrongs committed; power to use the force of numbers, wealth, and the potential wealth involved in the right to levy from their members.

In 1900 the boilermakers' society issued instructions to their members that they were not to work on repairs to ships that had been built by the firms of Messrs. Short Brothers and The Strand Slipway Co., Sunderland, because these firms employed non-union platers, caulkers, riveters, etc.

Extract from the Boilermakers' Monthly Report for January, 1900.

MESSRS. SHORT BROTHERS AND THE STRAND SLIPWAY CO., SUNDERLAND.

"As these firms have displayed hostile feeling against this society, we ask all our members to show their independence of them by keeping away from their works, also not to touch any job belonging to them, or work on any vessel that may be built by them wherever such vessel is found. If any of our members are working for either of these firms when this monthly Report is issued, they are not to leave their employment without completing their contract if they have any, or, if day work, they must not leave without giving legal notice as required by the firm. Similarly, in all cases where our members are required to work on vessels hereafter built by these

firms, legal notice should be given before they leave their employment so that no breach of any legal contract may arise. We will give the names of vessels in future monthlies.

"No branch can be allowed to admit any man as a member coming from Sunderland without first getting sanction from this office; and young men who may work in the yards before-mentioned, or any lads who may serve their time in these yards, are not eligible to enter this society.

Names of Vessels.

"1st. 'Saxon Prince.'—Prince Line Knott (Newcastle-on-Tyne).

"2nd. 'Nedeness.'—Mr. G. T. Boe (Arundel), Owner.

"3rd 'Sebriana.'—British Maritime Trust, Ltd. (London), Sir. E. T. Gourley, M.P., director.

"4th. 'Winkfield.'—Belonging to the Seafield Steam Shipping Company (London).

"5th. 'Brenda.'—Owned by the Brenda Steam Ship Company (London)."

Is it proposed to give the support of the legislature to decrees such as the above?

Employers' Associations and Federations come under the Trade Union Act, and the Bills, if they became law, must apply to such organisations equally as to trade unions. Here then we should have a state of affairs that would be intolerable. Wealth pitted against wealth without responsibility on either side for acts done in furtherance of a trade dispute.

3912. You are a member, are you not, of the Shipbuilding Employers' Federation?—Yes, it is a Federation of Associations, and I am a member of the Clyde Association.

3913. Do the rules of the Federation touch upon the subject of strikes at all—what would be the inter-action of members during strikes?—It is for mutual support of course.

3914. There are rules?—I do not know whether they are codified, but that is one of the objects of the Federation.

3915. Would you have any objection to furnish us with a copy of the rules of the Federation?—I would have to consult the Executive Board.

3916. Will you be good enough to do that?—I will do so.

(The Federation subsequently decided that it was inadvisable that their Rules should be published.)

3917. The first matter with which you deal is picketing: you know the law as it is now?—Yes.

3918. That attending for the sole purpose of obtaining or communicating information is permissible, but watching and besetting a house for the purpose of persuading or for any other purpose than for the purpose of obtaining or communicating information is illegal?—Yes.

3919. You see objections, I understand, to rendering permissible watching and besetting a house for the purpose of persuasion?—Yes, I think it is objectionable.

3920. Have you known any case of peaceful picketing?—I do not think there is any absolutely peaceful picketing.

3921. Are you in favour of retaining or abolishing the qualifying clause which legalises attending for the purpose only of obtaining and communicating information?—I would be in favour of abolishing that permission.

3922. You say, I think, that the result of the recent decisions has not been to alter the policy of trade unions with respect to non-unionists?—No, that is to say, they object to work along with non-unionists in our business.

3923. And the late decisions have not diminished their action in that direction?—I think not.

3924. Do you consider that striking against non-unionists is at the present time actionable or not?—I believe it is actionable.

3925. Is it your opinion that any strike whatever by a union for the exclusion of non-unionists is actionable at the present moment?—I do not see that you can raise an action against anybody for striking, but if a man is deprived of employment a claim arises.

3926. But does not every strike against non-unionists tend to deprive the men of employment?—Yes, of course it does.

3927. Then is every strike against non-unionists actionable?—If a man is thereby deprived of employment.

3928. Every strike must do so?—Perhaps not.

3929. In what way?—The employer might persist in employing the non-unionists in spite of the strike; in most cases he would not.

3930. Your opinion is that a strike against non-unionists is actionable if the union is strong and the master gives way, but is not actionable if the union is weak and the master can defy it?—Yes.

3931. Are you prepared that that should be the state of the law?—I do not see how we can amend it.

3932. Is there any principle at all in a law like that? Do you consider that ought to be the law?—I do not see who would raise the action in the case of a strike which was not successful.

3933. You refer to the demand by unionists upon the employer to pay the arrears of subscriptions of unionists?—Not to pay the arrears but to dismiss a man unless he pays the arrears—to compel payment of the arrears.

3934. There are cases where the demand is made directly on the employer?—I have never had such a demand made upon me; I have had a demand to compel payment.

3935. Do you consider that that is unlawful at the present time?—I cannot say whether it is unlawful or not, but I am quite sure it is wrong.

3936. It is unreasonable?—It is unreasonable.

3937. But do you think that because an act is unreasonable therefore it should be actionable? Apply that to yourself. May I ask if you have never done anything unreasonable in your life?—I am afraid I have sometimes.

3938. Would you have liked to be dragged into a Court of Justice for that and made to pay damages?—If I caused damage I suppose I would be liable to have an action raised against me.

3939. For doing anything unreasonable?—If I thereby caused damage to any person I might be liable.

3940. You refer in your *precis* in a somewhat indirect way to strikes for demarcation of trades. You say: "Many instances can be given where they attempt to prevent the employment of other trade unionists"? (Vide p. 232, col. 2, ante.)—Yes, it happens very frequently.

3941. Do you think that is unlawful?—No, I do not think it is unlawful in the present state of the law.

3942. Do you think it ought to be made lawful?—I do not think it is a matter for the Legislature at all.

3943. Yet I suppose you would say it is highly unreasonable?—It is very unreasonable.

3944. Supposing that the normal wages are 30s., and supposing that an employer says: "I will not employ any of you men" (to take an extreme case) "at wages higher than 6s.," do you think that ought to be actionable?—No, but I do not think he would succeed.

3945. If, on the other hand, workmen go to the employer and say: "We will not work for you unless you pay us £100 a week each," do you think that ought to be actionable?—No, I do not think so.

3946. If workmen go to an employer and say: "We will not work for you unless you pay up the arrears of unionists' subscriptions or dismiss the unionists who are in arrear," do you think that ought to be actionable?—I do not think it is the employer's concern to prosecute that case.

3947. You speak of conspiracy also, and you say (Vide p. 232, col. 2, ante) that Section 2 of the Bill proposes "to relieve from an action for conspiracy any persons who combine to do an act which may not be the subject of an action when done by one person," and with reference to that you say, "A single individual may sit on one's door-step without inspiring fear, but a crowd before one's door would constitute a private and public nuisance—an infringement of one's right of social liberty and comfort." Now assuming that there are some things which would be permissible for an individual to do, but which are not permissible for numbers to do, you would not extend that principle would you to all acts whatever and say that whatever one man may do persons in numbers may not do?—I would not extend it to all actions whatever.

Mr. John
Ingles, L.L.D.
14 Dec. 1904.

Mr. John Inglis, LL.D. 3948. How would you select the actions ?—Where it constituted an annoyance or an intimidation.

14 Dec. 1904. 3949. But probably intimidation is unlawful for an individual and annoyance too ?—It is not so easy for one individual to intimidate as for a number.

3950. If you did not define it by Act of Parliament, would you leave it to the discretion of the Court to say that : "This act when done in combination shall be actionable although when done by one it is not actionable ?"—Yes, I think it would be safe to leave it to the judge.

3951. Do you think a judge should have that extensive discretion ?—I think he should.

3952. Say that any two persons, for instance, combine to do anything, it would be lawful for the judge, supposing it does damage, to declare that that is actionable. You are prepared for a law of that kind, are you ?—Yes.

3953. Do you not think that is rather an impracticable law. How could two workmen know, when they were going to do anything, whether it would be lawful or not when the only opinion a legal person advising them could give would be to say : "We must wait and see what the court says" ?—Well, I am not prepared to draft a new law on the subject, but I will give you an instance of what I have seen in that way if you like.

3954. I do not suppose anybody doubts that there are great offences done by persons in large numbers ?—I have seen a street full of people waiting for a man coming out from his work.

3955. (*Mr. Cohen.*) An action in that case only lies where there is damage ?—I suppose being pelted is suffering damage ?

3956. (*Chairman.*) You refer to the case of the strike against Messrs. Short Brothers : that was a case, we might say, of black listing, was it not ?—I believe Messrs. Short employed non-union men.

3957. And notices were sent round to workmen not to work at Shorts ?—Yes.

3958. What is the practice of employers, do you know, in case of a strike ? Do they send any notices round to each other that certain workmen are on strike ?—Yes.

3959. I suppose those notices are sent with a view that the workmen shall not be employed ?—Yes.

3960. In fact they are black lists ?—They may be called so.

3961. As to the workmen, is it not a common practice on their part to insert in the newspapers a notice that a strike is going on at a certain shop and to warn persons from going to that shop ?—Well, the newspapers get hold of it ; I do not think it is inserted by anybody.

3962. If they do not do that, do not the men send round a notice to other workmen or to other unionists stating that there is a strike ?—I believe they do.

3963. Do they not do anything more than that ? Do they not send round to the branches of their union or to other unions the names of the men who continue work during a strike or who take service during a strike ?—I cannot say as to that ; I do not know.

3964. But you are familiar with the fact that black lists are circulated by workmen ?—Well, I see their monthly report occasionally, but I have not noticed the names of men who were working.

3965. They would not send them to you ?—No, but we get them all the same.

3966. Do you consider black lists lawful or not lawful ?—I am not aware that they are unlawful. There is nothing in them but a simple statement that certain men are on strike.

3967. Of course you would not permit the circulation of an offensive placard ?—I think that should be unlawful.

3968. Anything that might be supposed to be slanderous or libellous ; but the issue of black lists, whether done by masters or men, is clearly intended with a view to the prevention of persons being taken into employment ?—Yes.

3969. Do you think that the fact that a strike is actually in existence makes any difference ?—As to its lawfulness ?

3970. As to the legitimacy of black lists ?—There would not be any if there was not a strike or dispute of some kind.

3971. I beg your pardon. Supposing the union determines that unionists shall not work with non-unionists and that there is no strike, do you think it would be wrong for that union to follow any non-unionist from place to place and cause a strike to be made against him wherever they found him ?—Yes, I think that is wrong.

3972. Why is that wrong ?—It is interfering with the liberty of a man to earn his living in his own way.

3973. But I thought you hesitated rather as to whether it was wrong for the unionist to do that in the case of a strike. You did not see so much harm in the unionists sending word during a strike to their friends that a certain master's men were on strike, and that the master's shop was to be avoided ?—But that is only preventing their own men from working ; that is not preventing the non-unionists from working.

3974. Is not that just the same ? How do they prevent the non-unionist from working ?—They annoy him going to and from his work.

3975. Supposing there is no intimidation or interference in any way and no picketing ; the way they interfere with the non-unionist is by declining to work with him ?—Yes.

3976. By depriving the master of their own services ?—Yes.

3977. That compels the master ?—Yes, I think that is a case that the masters should take into their own hands.

3978. You do not think that should be a case for the law ?—No.

3979. To take you back to the case which I put, here is a defaulting unionist, and the union desire to punish that man and refuse to work with him ; they hear he has gone from Manchester to Sheffield and they send word to Sheffield, and the unionists there strike against the man there ; he goes on to Birmingham and the same process is repeated ; am I to understand from you that you think the law should not interfere in a case of that kind ?—No, I think the employers should take that into their own hands.

3980. That after all is a very effective remedy, is it not ?—Yes, if they stick together.

3981. But in some cases it is not ; for instance, if there is a strike on a railway, it is rather difficult for the railway company to "shut up shop," to use a common expression ?—It is ; I am a railway director myself and I have some sympathy with them.

3982. (*Mr. Cohen.*) What is the object of your Federation ?—Mutual protection.

3983. In what way ?—Generally against the encroachments of trade unionists ; if there were no trade unions I do not think there would be any federation of employers.

3984. What protection do you afford to your members ?—Mutual comfort in case of a strike.

3985. Pecuniary support ?—Sometimes.

3986. What other support ?—Declining to employ a man on strike, and in extreme cases there might be a lock out.

3987. You agree to decline to employ a man who strikes ?—Yes.

3988. Is that one of your rules ?—No, there is no rule to that effect.

3989. And if necessary you agree to have a lock-out ?—In extreme cases.

3990. Now what kind of rules have you ? I just want to know the kind of rules you have : can you give me a specimen of one or two rules ?—Really I have not got a copy with me, and it is so long since I referred to them even, that I could not say much about them.

3991. You could not give me a notion of the general effect of the rules?—The objects are said to be for mutual protection, and to watch over legislation such as is proposed now.

3992. Do your members contribute towards a common fund?—Yes.

3993. Is there a fund in existence?—It is not a large fund. All the contributions in the meantime, and ever since the Federation has been established, have been really for the expenses of carrying on the business. There have been no lock-outs since the Federation came into existence.

3994. But there have been strikes since the Federation came into existence?—Local strikes.

3995. Small?—Yes.

3996. Unimportant?—Not very important.

3997. When did your Federation come into existence?—I could not give you the exact date, but it is not very long since. It has been reconstituted; there was a former Federation and the present one is built as it were on the ruins of the old one.

3998. When was it rebuilt—three years ago?—More than that; I have not the exact date. The first Federation was formed in 1889, and included marine engineers; the present Federation of Shipbuilding Associations was formed in 1899.

3999. If there were a great strike I suppose the members of your Federation would be called upon to contribute towards the fund?—Yes, as the Engineers' Federation did some years ago.

4000. Have you any rule bearing upon that point?—We can make a levy.

4001. You can make a levy for the support of the members of your Federation?—Yes.

4002. (*Mr. Sidney Webb.*) I want to ask one or two questions with regard to this extract which you give from the Boiler Makers' Monthly Report. I see you say that the Boiler Makers' Society issued instructions to their members that they were not to work for a certain firm, but the extract which you give shows that what the society did was to urge, "We ask all our members to keep away from those works." That is hardly issuing instructions, is it?—I think it is.

4003. It comes to much about the same thing, you think?—Yes, I think the consequences would be rather unpleasant to anyone who declined.

4004. Still on the point of alteration of the law, would it not be rather difficult to make it in any way unlawful for one man to ask another not to accept work at a certain place?—Yes.

4005. Do you suggest that that should be done?—No.

4006. Because you notice they very carefully go on to tell their members that on no account must they break their contract there?—Yes.

4007. I think you have generally found that the Boiler Makers' Society have pursued that policy, have you not?—Yes.

4008. They do not sanction breaches of contract if they know it?—They do not.

4009. They are very careful to prevent breaches of contract?—Yes, and not only so, but they have paid damages for breach of contract by their members.

4010. Voluntarily?—On being asked.

4011. The point is that you see all that they do is to ask their members to stay away from a particular firm. Now that might be very annoying to the firm, but I do not gather that you suggest that it should be made illegal?—No, I do not.

4012. And similarly I think you can go on the line that you would have trade unions put on an equality with combinations of employers?—Yes.

4013. You would not suggest that there should be any special exception or privilege for either of them?—Certainly not.

4014. That means, of course, that the trade union as a combination would be liable for any wrongful acts which it might commit?—Yes.

4015. Or which its agents might commit?—Yes, the same as the employers ought to be.

4016. Two difficulties occur about that that I want to put to you, to get your help. You see you have suggested quite reasonably that when an act is committed by one person it may not be so serious as an analogous act committed by a number of persons. How would you put a single employer and a group of workmen on an equality in that way? If a group of workmen, for instance, decide wrongfully to strike or enter into a conspiracy against the employer that might be unlawful, but if an individual employer equally unreasonable decided to dismiss all the workmen, that obviously would not be unlawful?—He could not enter into a conspiracy with himself, of course.

4017. And therefore if you were to put the employer on a level with a group of workmen you would have to alter the law of conspiracy, would you not?—But I do not propose to put the employer on a level with the group of workmen.

4018. What you propose is that the group of workmen should be put on a level with the group of employers?—Yes.

4019. And that a single employer should be allowed to do many things which a group of workmen would not be allowed to do?—He might.

4020. That is my difficulty you see, that a single employer might quite rightly come to the conclusion with himself to dismiss all the workmen for a totally malicious reason, and no one ever suggests that he should be prevented from doing that?—I think that is almost impossible.

4021. But we are proving the extent of the powers of the two. I do not gather that you suggest that a single employer and workmen should be made equal in that respect?—I do not think it would be necessary to provide any special punishment for the employer in that case because I think it would bring its own.

4022. You do, however, think that a combination of employers should be put under the same terms as a combination of workmen?—I think they should be prevented from oppressing anybody.

4023. Now supposing that combination of employers presently becomes an amalgamated association (we can imagine such things happening in most trades now), they would then be in the eye of the law a single person, and what was formerly a combination of employers would be able to do lawfully acts which they could not formerly do because they were a combination; you follow that?—Would that be the effect?

4024. That would be the effect you may take it, and therefore my difficulty is how are you going to put a group of workmen on the same footing, let us say, as the Atlantic Shipping Combine, if that were a single limited company, because that is a single person in the eye of the law?—I think there is sufficient ability among the lawyers to get over that difficulty.

4025. One other question. I think your association, or one of them, because of course you had local associations before you had a Federation, have frequently entered into agreements with various trade unions have you not?—We have.

4026. And on the whole you would say it has been convenient to enter into those agreements?—Yes, it is a rough method.

4027. But you have at any rate voluntarily entered into agreements in order to avoid friction or inconvenience?—To avoid constant haggling.

4028. Of course you have no means of legally enforcing these agreements if they are broken at present, because a trade union cannot lawfully enter into that sort of agreement?—Do you mean upon our own members or upon the members of the union?

4029. I mean that, supposing one of your associations enters into an agreement with the Boilermakers' Society with regard to the limitation of apprentices or something like that, and the Boilermakers' Society breaks that agreement, you cannot at present sue them for damages; although the trade union may be liable for torts it is not liable for breaches of contract?—I am not aware of that.

*Mr. John
Inglis, LL.D.*
14 Dec. 1904.

Mr. John
Inglis, LL.D.

14 Dec. 1904.

4030. You have not had any experience of that ?—No.

4031. But do you see any objection to making a trade union liable for breaches of agreements into which it has entered ?—No, I see no objection to that.

4032. In fact I gather you would almost suggest that a trade union should be treated as if it were an incorporated company ?—Yes.

4033. Then similarly a company consisting of members who agree to pay a certain subscription is able to sue its members if they do not pay that subscription, but a trade union cannot do that at present. Do you see any objection to enabling a trade union to sue its members on the contracts which its members have made with it ?—No, I see no objection to it.

4034. (Chairman.) You said just now that there was no objection to a trade union being able to sue its members: have you considered what the agreements are? Do you think that if workmen have agreed to pay 2s. a week towards the maintenance of a strike so long as the strike goes on, the trade union should have the power to go to a court of justice to compel the workmen to go on paying 2s. a week towards the maintenance of the strike, although the workmen themselves wish to go in to work again ?—I do not think a man should be compelled to remain a member of the union for life.

Mr. WILLIAM BAGLEY called and examined.

Mr. William
Bagley.

14 Dec. 1904.

4041. (Chairman.) I think you are Chairman of the Yorkshire Glass Bottle Manufacturers' Association ?—I am not the present Chairman, but I am the originator of the Association; I brought it into existence. It might be useful that you should have before you the evidence which I gave in 1892 before that Commission on Labour.

4042. We shall have an opportunity of referring to your evidence before that Commission. Do you give your permission to us to make use of this *précis* of evidence which you have sent in ?—Yes, decidedly. It is as follows :—

In my opinion, if the Bills (*Vide Appendices, pp. 7 and 8*) became law, they would prejudicially affect the glass trade by strengthening the powers which the trade unions now have in case of strikes. Hitherto, picketing has not been indulged in to any considerable extent in our trade, but I am of the opinion that if the Bills became law, they would become a power and a menace with which we, as a trade, would be unable to cope.

My experience of trade unions is that, whereas there are rules and regulations for the working of the union, these are not always adhered to, and many of the members act and do things under the impression that they are protected by their union.

Trade unions are sufficiently protected by the existing laws, and that the existing laws prove no detriment to the unions or unionism until they have acted in a tyrannical manner. They have undoubtedly become a great power under existing laws.

In my opinion, picketing, even by one or two, has a tendency to a breach of the peace.

With reference to the Bill referred to as the Trade Disputes Bill, 1904 (No. 8) (*Vide Appendices, p. 7*), presented by Mr. Paulton, and to the funds of the union being liable for the actions of individuals, my opinion is, that the funds other than those set aside for sick and death allowances ought to be liable to any action at law in consequence of an illegal action performed, because from my own experience, and from the knowledge which I have of trade unions generally, I cannot conceive of any possibility of wrongful acts being performed and placed upon the minute books of the trade unions, and that oral communications may be used of which there is no account taken, and that it is possible and probable that instructions can be given from time to time for illegal acts to be performed, and these instructions never come to daylight.

Therefore, my conclusions, in brief, are :—

(1) That the existing law has proved no detriment to unions or unionism, until they act in a manner which would be a breach of our common law, and that, under present conditions both parties, that is, the employer and employed, are sufficiently protected so long as the men's conduct is reasonable.

4035. Whatever his agreement was ?—After certain notice I think he should be able to break his connection with the union.

4036. Do you think that if workmen have undertaken to strike, and to stay out as long as the strike continues, the trade union ought to be able to go into a court, and apply to the court for an injunction to prevent that man going to work ?—If he has agreed to strike ?

4037. Yes ?—That is to say, he is not to be allowed to change his mind ?

4038. No, he has entered into a contract for a term ?—I do not know that that would be a legal contract.

4039. I ask you what you think the law ought to be; at present I think I may venture to say that a trade union has no such power ?—I understood Mr. Webb's question to refer entirely to subscriptions.

4040. Mr. Webb extracted from you an answer that you saw no objection to trades unions enforcing against workmen the contracts which they had made with the union, and I ask you, do you not think that there is some qualification which might be necessary to that answer ?—Oh yes; I understood the question to refer merely to money payments.

(2) That all registered trade unions ought to keep two separate funds, one of which should be called 'The Sick and Death Fund,' and the other 'The Trade Disputes Fund,' and such Trade Disputes Fund should be liable for the actions of its members, whether they be executive or otherwise.

(3) That greater liberty should be extended to persons who do not wish to join Trade Unions, and any attempt to coercion ought to be made penal, and that no deputation in strikes or lock-outs, either to the master or to the workmen, should exceed more than two, and that a notification through the post of such deputations, actions, etc., should be sent to the individual or individuals to be so waited upon.

And generally, if the Bills become law, it will be much more difficult to carry on business where a larger number of men are employed than at present, and would be conducive to a diminution of trade.

4043. You are the originator of the Yorkshire Glass Bottle Manufacturers' Association ?—Yes.

4044. Have you the rules of the association with you ?—I have the rules, but I have not got permission for them to be printed.

4045. Will you kindly ask for permission ?—I will ask for permission from the Association. (*Mr. W. Bagley subsequently wrote to say that after due consideration his Association had declined to give permission for their Rules to be printed.*)

4046. The first point which occurs on your paper is the subject of picketing; do you desire that picketing should be sanctioned for the purpose of peaceful persuasion ?—I do not.

4047. Do you wish the present qualifying clause, by which attending at a house merely for the purpose of obtaining or communicating information is lawful, to be retained or not ?—I would alter that.

4048. Do you mean you would abolish it altogether ?—I would abolish it altogether.

4049. So that picketing under no circumstances should be allowed ?—I would have picketing under no circumstances.

4050. May we say that in 99 cases out of 100 it is intimidation ?—It is objectionable and leads to breach of the common law of the country in my opinion.

4051. As to the Taff Vale decision, do you think that is right ?—Yes distinctly, with this exception which I want you to note, that all trade union funds, in my opinion, ought to be kept separate according to the object for which they are contributed, that is to say, a proportion of the contributions of the trade unionists is for trade disputes and a proportion is for sick benefit and death benefit, and I would make two funds, and the sick and death benefit should not be available for action at law for trade disputes.

4052. What is the reason why you propose that separation of the funds?—Because a certain amount contributed has been for a specific purpose, death or sick benefit.

4053. I am afraid that is not the case, is it?—In my experience it is. You see I speak as an old trade unionist, and there is a certain recognised proportion of the contribution to be used practically for the benefit of the individual.

4054. There may be cases of that sort, but surely the usual rule is that any arrangement of that kind is subject to be set aside in case of a strike; there is always the dominant purpose of supporting the union in case of a strike?—Yes, but if you take it this way, providing there were two separate funds established, and the sick and benefit fund was treasured upon for trade disputes, then the members I take it who objected to that would have an action at law for breach of trust.

4055. (*Mr. Cohen.*) Not under the present law, but they could have an injunction to prevent the application of that portion of the funds to strike purposes?—Yes.

4056. (*Chairman.*) Assuming that there is an agreement to set aside funds for sick and death purposes and that the money cannot be alienated for any other purposes, then it would be a breach of trust to apply those funds for trade purposes?—Yes.

4057. You suggest, as I understand, that such an arrangement as that should be made obligatory in all cases?—Decidedly.

4058. On what ground do you propose that?—On the ground that a man may have been paying into his trade union for a number of years, and the funds of that union might be exhausted by means of trade disputes to such an extent that the benefit fund would suffer and he could not receive the benefits.

4059. That is obvious I think we may say, and therefore may I infer from you that you would forbid such an arrangement in the interests of the workmen?—In the interests of the workman.

4060. You say that it should be obligatory on every union to have a separation of funds, and that the sick and death funds should not be liable to be alienated for trade purposes, and you have said you would make that law in the interests of the workmen?—That is so.

4061. Do you think that in your anxiety to protect the workman you should protect him from himself, that if he thinks it to his advantage to join a union, to associate himself with others, perhaps primarily for the purpose of making provision in case of sickness, but on the understanding that in case of strike the upholding of the strike shall be carried on with the sick funds, you have a right to prevent him doing that?—I have a difficulty in answering that question, because my experience, which ranges over thirty or forty years, is this, that a trade unionist has no option but to join the trade union.

4062. I think we must not go into that; that is an important matter but does not come into this question?—It is so much connected with the question that I cannot see that there is any possibility of the offer being made to the man; it would have to be legalised.

4063. By a stretch of the imagination can we not imagine workmen thinking that it would be best to their interest not to have an absolute separation of funds?—I should think not.

4064. Cannot you imagine persons doing it? You may say they are weak-minded, but they might have the idea that it would be to their interest to have no absolute separation of funds?—I cannot imagine a reasonable man objecting to it.

4065. Supposing they are all unreasonable, would you prohibit them from not having an absolute separation of the funds?—I would not prohibit them not having a separation.

4066. I thought you said you would?—No, there seems to be a misunderstanding. My idea is this, that I want to protect the workman against himself practically.

4067. That is exactly the question I am putting to you?—Yes, I want to make his funds secure for these particular benefits for which he has paid into the union.

4068. You wish by law to overrule the man for the man's own benefit?—Yes. *Mr. William Bagley.*

4069. That is your view?—Yes, because he is there subject to practically a coercion from his own co-members. *14 Dec. 1904.*

4070. If you rest it on coercion, I cannot argue the matter with you?—These are facts.

4071. You think every member of a trade union should be considered as a man acting under duress?—I mean to say that in the trade union which I have had so much interest in and knowledge of the men cannot work in the trade unless they are members of the trade union, and if a man did not pay his contribution at the end of the quarter the men as a body would not work with him. I say that advisedly.

4072. Do you think that it should be unlawful to endeavour to compel persons to join the union?—No, decidedly not, if coercion is not resorted to.

4073. If that is so, how can you say that all members of unions are in a state of servitude and not masters of themselves?—I am confining my remarks particularly to the union with which I have had to do, and I want you to notice that, but generally speaking there is an effort being made to compel men to join unions against their will.

4074. Have not unionists an interest in doing so?—Yes, they have—to become a consolidated power.

4075. And how do they compel other persons to join the union?—By refusing to work with them.

4076. Is there anything wrong in that?—Well, that is a point which I, as a magistrate myself, should be very chary about giving an opinion upon, because I do not know the common law of the country clearly enough to give a proper answer. I say in my *précis* that greater liberty should be extended to persons who do not wish to join trades unions.

4077. (*Mr. Cohen.*) I think you gave evidence before the Royal Commission on Labour in 1892?—I did.

4078. Do you remember saying (Question 30081) that since you became an employer you had been instrumental in forming the present Masters' Association, and your experience both as workman and master had led you to the conclusion that organisation on both sides was the best way of preventing strikes; and you agree with that?—Yes, I say so still.

4079. Your more recent experience has not led you to alter that opinion?—Not at all.

4080. And you stated that the two associations, that is the Masters' and Workmen, met together to discuss their difficulties in a friendly way, and with the exception of the strike in 1886 disputes had been entirely prevented?—That is so.

4081. So that, on the whole, you think that method is the best way of avoiding strikes?—I do.

4082. And you have found that that method can be generally worked satisfactorily?—Yes, and it has worked satisfactorily in the trade from that day to this.

4083. As regards picketing, may I take it that you think picketing is not necessary for obtaining or communicating information?—My opinion is this, that picketing tends to a breach of the peace, and that there are other means of communicating betwixt the parties than personal contact, and that if opposed to each other they would communicate by letter or by other means than there would be a possibility of a better explanation or settlement being arrived at, because my opinion is that picketing leads to brute force.

4084. Your great objection to picketing is, in the first place, that it may become a public nuisance?—Yes.

4085. And, in the second place, it is generally intended or calculated to intimidate?—That is the fact.

4086. That is to say, to make people afraid that they will be injured in person or property?—Yes, and that is my reason for saying that the communication betwixt the disputants should not be a personal encounter, but a communication which should come in such a form that there would be no possibility of a breach of the peace.

4087. So that picketing, in your opinion, in almost all cases produces bad effects?—I think so.

Mr. William Bagley. 4088. And you cannot easily conceive a case in which picketing is reasonably necessary for peaceful persuasion ?
14 Dec. 1904. —I do not think so. I think the word "peaceful" there is entirely out of place.

4089. And therefore you are of opinion that picketing should be in all cases abolished ?—I think so.

4090. (Chairman.) Have you anything else you would like to say ?—I have a lot of things, but I do not know that they are relevant to your point. I could give you a lot of experience which I have had even since 1892. I wanted our workmen to adopt the Industrial Partnership method, a question I referred to, if you will read my evidence before the Royal Commission on Labour, and I could have given you the details if necessary. If my Association agree to the Rules being put in, I will forward a copy of them to you. (Vide Q. 4045 ante.)

4091. (Mr. Cohen.) If the funds of the trade union were separated into what I might call funds for provident purposes and funds for trade purposes, so that the executive could not apply the former fund to strikes at all, would you be of opinion that the funds for the benefit of the sick or for provident or charitable purposes should not be liable in actions brought against trade unions ?—That is what I say in my *précis*. I say they should be inviolate.

4092. But you have not stated in your *précis* that the former fund should not be liable ?—I think it should not be made liable to any action at law against the members of the trade union.

4093. I think I should like to have that clear. In your opinion all registered trade unions ought to keep two separate funds, one of which should be called "The Sick and Death Fund," and the other "The Trade Disputes Fund" ?—Yes.

4094. That such "Trade Disputes Fund" should be liable for the actions of its members, whether they be executive or otherwise, but that the other fund should not

be liable. You will allow me to put that ?—Yes, I shall very pleased if you put that in, because that is what I meant distinctly.

4095. (Chairman.) I suppose it would be a good thing for masters, would it not, that the funds of the trade union applicable to strike purposes should be reduced, that the war fund should be depleted ?—I do not see that.

4096. It has not occurred to you to look at it from that point of view ?—I do not see that, because I believe it is recognised to a certain extent, only they are not in a separate form. Where there is a well regulated trade union it would keep its funds in such a form that that portion which was relegated to the provident department should not be applied to strike purposes. The point I am at is this, that at the present time, as the law stands, if they are not separated they are both liable to action at law for any action of the executive.

4097. (Mr. Cohen.) Can you tell me whether, generally, the rules of a trade union allow the funds for provident purposes in case of strikes to be used for strikes ?—No, I am not prepared to give any evidence on that point.

4098. You know that in many cases the rules of a trade union do prescribe that certain funds shall be applied generally for provident purposes for the sick, and such purposes, and certain other funds for trade purposes ?—Yes, but they are never separated in a proper manner.

4099. And your opinion is that they ought to be separated in a distinct and proper manner ?—Yes, and registered.

4100. And that there should be no liberty to apply the fund for provident purposes to the support of strikes ?—That is my opinion. The two points in my *précis* are these, that picketing is absolutely unnecessary and that the trade union funds should be kept in the way I have indicated, and I say that from an experience of forty years.

Mr. GEORGE SOALL called and examined.

Mr. George Soall. 4101. (Chairman.) I think you are the Secretary of the National Association of Master Plasterers ?—Yes.

14 Dec. 1904. 4102. You have sent us a *précis* of your evidence ; you will allow us to make use of it for the purposes of our Commission ?—Yes. It is as follows :—

On the question of picketing it would certainly be a very serious matter with all employers of labour if the decision arrived at in the Taff Vale Railway case was altered in any way.

The several trade unions are now well aware how far they can go in the way of picketing without becoming offenders against the law. My experience of the picketing carried on during the plasterers' dispute in 1899 was anything but peaceful.

If members of a trade union were to be permitted by this Act to attend at the works it would lead to a great deal of loss to the employers. Take the business of a builder or general contractor ; there may be a dispute with one trade only, but if the members of that trade were permitted to attend on the works it would not be long, in my opinion, before other trades would be brought into the dispute.

I do not think any amendment of the law of conspiracy necessary. I certainly think a trade union should be held responsible for the action of its members.

In our own trade—plasterers—it is generally understood that no strike or lock-out can take place without the sanction of the executive council of the National Association of Operative Plasterers. If that sanction is given, I contend that the whole of that trade union are parties to the dispute whether it is a general lock-out or only a local dispute, for no strike pay can be paid without the sanction of that Committee, who are elected by the votes of the whole of the members. As an illustration how some of the disputes begin, I will cite you a recent case. The extracts are from the Report of the National Association of Operative Plasterers for July, 1904.

EXECUTIVE COUNCIL MEETING, JULY 14TH, 1904.

Nottingham.

Nottingham asked, seeing that Derby members were still working black in the former's district, that the shop of Mr. Dakins, of Derby, be closed to our members.

Brother Smyth moved and Brother Tanant seconded, "That in the event of the firm mentioned continuing to "work against the rule of Nottingham trades, the shop be "closed to our members on July 30th, pending their falling "into line, and our members from Derby working upon "the job be given until the same date to decide whether "they will remain upon the job and forfeit their member- "ship, or leave and thus assist the breaking down of the "existing barrier." Confirmed.

Under the heading of Special Notices.

By an order of the executive council, Dakin's shop (Derby) and jobs elsewhere are closed to our members, also Woods (builder) jobs, of Derby, for not conforming to the local working rules where such jobs are being executed.

In the case of trade union funds, I consider that as all contributions from members are placed to the account of one general fund, the funds of the union should be liable for any damages that may be obtained against the union by reason of the action of the members of such trade union.

But I am of the opinion that the Registrar-General of friendly societies should have power to control certain portions of subscriptions received from members of trade unions, for the purpose of providing for sick, funeral, and accident cases, and such funds should be protected from the power of the executive council for use in case of strikes and disputes. A separate account should be kept of all contributions, fines and levies received, for the purpose of strikes, disputes, or other trade privileges, and that portion of the union funds alone should be available for the payment of law expenses and allowances to members during a strike, lock-out, or dispute.

4103. Have you supplied to the Secretary the Rules of your Association?—Yes. (*Vide Appendices, p 86.*)

4104. The first question which arises on your *précis* relates to the Taff Vale decision. Do you think that ought to be maintained?—Yes.

4105. You see no reason why Trade Union funds should not be liable for the tortious acts of Trade Union agents?—No. My opinion is that Trade Union funds are worked badly, and that the whole of the funds, in my idea, should not be amenable to a levy or be recoverable at law. I take it that the operatives contribute the greater part of their subscriptions to the union for sick and funeral benefit, and, in my opinion, that should be controlled separately and should not be part of the fund that can be used in any way against the employer, because it is not contributed with that idea.

4106. Are there not the two cases, the one in which the Trade Union is based on the theory that the two functions should be kept entirely separate?—Yes.

4107. And the other that although there should be a certain proportion of the subscriptions usually set aside for provident purposes, nevertheless in the case of emergency or strike they should be used for strike purposes. Those are the two ways, are they not?—Yes.

4108. Do I understand that you would forbid the latter way?—Yes.

4109. On what ground?—On the ground that the subscriptions were never included for that purpose.

4110. Forgive me, it is intended; that is the effect of the rules of the union, as I am supposing them to be?—According to the rules of the union, as I read them, they use the whole of the funds if necessary for strike purposes.

4111. And, therefore, any man who enters the union enters it on the understanding that although there is a provident fund that provident fund shall be available for strike purposes?—I do not think so.

4112. That is so, as a matter of fact; you cannot deny it?—As I read their rules, I read them that they guarantee a certain amount of money at the death of a member or a member's wife; they guarantee a certain amount of money for a member in sickness, and they guarantee a certain amount of money for an accident should it occur.

4113. But is not there always a condition understood, that there should be funds available for the purpose?—Yes, but if those funds were used for strike purposes they would not be available for the other purposes.

4114. You cannot say that a workman has any right to feel himself wronged or disappointed if with his eyes open he has joined a union in which the provident funds are applicable in case of emergency to strikes?—That is quite true, but if you ask the employers whether they are in favour of attaching the whole of the funds, the employers would not, in my opinion, wish to do that if the funds were controlled in such a way that they could not be applied except for the specific purposes.

4115. On what grounds do you argue that?—The grounds of a provision for their own purposes; we do not wish to be arbitrary and to attach the money that should be set aside for other purposes.

4116. I am afraid you have not answered my question. Do you insist that the two funds should be kept rigidly separate with a view to the protection of the workmen?—Yes.

4117. Then why should the workmen, or rather the workmen's association, if they prefer that the funds should not be separate have them separate?—Well, if the workmen are satisfied I take it that it would be no province of ours at all to interfere.

4118. That is the case now?—Yes.

4119. The workmen say, "We prefer that the funds should not be separate?"—Well, they agree to that.

4120. Do you not think that from their point of view there is reason in it?—Well it is hard for me to judge that point of view.

4121. But you have suggested that the law should lay down an absolute rule that these funds should be separate

and the workmen seem to think otherwise?—Well, I do not think that before the Taff Vale decision they ever appreciated the danger to their funds, and I believe I am correct in stating that at least one trade union is seriously considering the division of their funds for that purpose.

4122. No doubt the Taff Vale case may have opened their eyes to the danger of their position, but I am supposing that recognising the result of the Taff Vale decision the workmen still wish to associate on the basis of having their funds not separate but all available for strikes?—No, for the other; would you prevent them from doing so.

4123. All that you mean then is that if you were a workman you would wish to belong to a union where the funds were separate?—I should.

4124. (*Mr. Cohen.*) Do you also mean that if the funds were so definitely separated that the provident funds ought not to be attached in an action against the trade union?—That is quite correct.

4125. (*Chairman.*) I assume that the fact of the two funds being separate means that in no case should the provident fund be used for any other purposes than provident purposes?—That is it. I take it that that part of the union where provision is made for these benefits should be controlled in the same way as a friendly society and under the Friendly Societies Acts.

4126. The next point is picketing. Is it your opinion that the allowance which the law makes for attending for the purpose of obtaining or communicating information should be maintained or not?—I do not think it should be allowed.

4127. You would alter the Act of Parliament?—Yes.

4128. You are in favour of the absolute prohibition in all circumstances of picketing?—Yes.

4129. I observe you say, "If the sanction of the Executive Council has been given, I contend that the whole of that trade union are parties to the dispute whether it is a general lock-out or only a local dispute." Be it so, you think that in a strike the two opponents are, on the one side, the employers or all the employers, as the case may be, and on the other side the whole union of workmen?—Yes.

4130. In a strike I suppose you consider that an employer is quite at liberty to obtain workmen, if he can, to fill the place of the strikers?—If he can, yes.

4131. And he is at liberty to induce one of the strikers to come into his service if he can?—Yes.

4132. Then you are also, I suppose, in favour of equality of rights between master and men?—Certainly.

4133. Do you or do you not think that during a strike the unionists should be at liberty to induce, in any way that is, not unlawful, workmen to leave the service of the employer without committing breaches of contract, or not to enter the service of the employer?—My idea upon that question is this, that the trade unionists should be at liberty to visit any non-union man at his house or at any other place but not on the works.

4134. I am afraid that is not an answer to my question, which is this: just as the master is entitled by offer of higher pay or otherwise to induce one of the strikers to leave his fellow strikers and resume work, so should it not be lawful for the trade unionists to induce in any manner not unlawful any of the workmen of the employer to leave his service on the termination of their contract, or, if they are not at work for him, to refuse to work for him?—I see no objection to a unionist trying to persuade a fellow workman to leave his employer's service.

4135. If the law now forbids it, would you be in favour of the law being altered?—Well, I do not think the law as it at present stands, and as it is understood now by the union, wants any alteration, but what I understand is that the question is peaceful picketing.

4136. That is quite another question from what I was asking you. You refer in your *précis* to what has happened at Nottingham?—Yes.

4137. Namely, the circulation of a notice that Mr. Dakins was, as they call it, "working black" and a recommendation or instruction that the members of the union should cease to accept employment from Mr. Dakins?—I think this case wants some little explanation:

Mr. George South.

14 Dec. 1904.

Mr. George
Soall.
14 Dec. 1904.

it is a complaint from Nottingham operatives with reference to Derby operatives. I may say that the job in question was being executed by a Derby builder, and a Derby master plasterer was doing the plastering at Nottingham. The local rules of Nottingham and Derby are different, and although the employer came from Derby they wanted him when he came to Nottingham to abide by the Nottingham rules and regulations. The difference might be such a thing as some difference in the time, and again there is such a thing as a difference in the payment, and I believe Derby is a half-penny an hour cheaper than Nottingham. As he did not comply with the operatives' request to conform with the working rules of Nottingham they struck his job, or, in other words, they gave notice that his men were to withdraw from work.

4138. What have you to say about that case ?—For an employer to have to alter the conditions of his work to suit every place where he is executing a contract would be somewhat difficult for him.

4139. Very difficult, and it is very unreasonable on the part of the workmen to demand that, but would you hold that because it is unreasonable therefore it should be actionable at law ?—If the employer's business is affected I consider it should be.

4140. Applying that to general life, do you think that if I do anything which is unreasonable and which affects a person prejudicially I should therefore be liable to an action ?—Yes.

4141. Take a case : supposing a young man wants to marry my daughter and I take an unreasonable objection to him ; he is a good fellow but I do not like him or I do not like his parentage and so on, and that is very unreasonable on my part. Do you think there ought to be an action against me ?—I should be sorry to compare the two cases. I consider in cases of this description the operatives are unreasonable in asking an employer to conform to their rules and regulations.

4142. Supposing I admit that, should that be actionable ?—If the employer is put to any inconvenience or loss, yes.

4143. That may be a very convenient rule for lawyers, but you have failed rather to show me under what principle of law it falls. You do not admit as a general rule that a person who does an unreasonable thing may be made liable for it ?—We take it that it is an unreasonable thing to ask an employer of labour to conform to the rules outside his own individual town.

4144. (Mr. Cohen.) I want to find out your meaning ; I do not suppose you would say that everything which is unreasonably done and which causes damage should give rise to an action—not in every case ?—Oh, no.

4145. But you say in this particular case for some reason or other that should be so ?—Yes.

4146. But you are not a lawyer ?—No.

4147. And therefore you are unable to state on what legal principle an action in that case should be maintainable ? You do not profess to be able to state that ?—No.

4148. (Chairman.) I do not like to suppose the case of you as an employer having acted unreasonably, but I think you may perhaps know of a case of some other employer having acted unreasonably : has that ever come within your experience ?—Yes, but lately we have signed a new agreement with our operatives and that has to a great extent settled a very vexed question that used to be a great source of trouble in our particular line.

4149. I am very glad to hear it, but the question I want to put to you is : Supposing a master acts very unreasonably and when the usual rate of wages is 30s. he says, being a miser or a capricious person, "I shall only pay you 20s.," all the world would say that was highly unreasonable. The men will not take 20s. and they are damaged and lose their employment altogether ; would you give these men a right of action against the employer because he has unreasonably reduced the rate of wages ?—Certainly.

4150. Although he was under no contract to employ them at all ?—We are under contract practically with all our operatives ; we pay the recognised union rate of wages or the recognised rate of wages in the town at

which we are at work. None of the members of my association are underpaying masters. I can assure you that every town has its rate of pay and all my members agree to pay that rate.

4151. (Mr. Cohen.) Is that agreement made between your association and the workmen ?—Yes.

4152. Do the workmen sign the agreement ?—I might explain that every large town has its own working rules and those working rules define the hours of labour and the rate of wages and the employers are party to those working rules.

4153. They are in print ?—Yes. In every town they have their own different ideas, it is what the operatives call local autonomy and we give to the branches of our association an opportunity to arrange the best terms they can for the locality they are in.

4154. Do you find that those rules are generally observed ?—Yes.

4155. Then how does it happen that strikes take place ?—I am pleased to say that the new agreement we have signed with the operatives this year, in my opinion, has removed two very strong points that used to be the cause of nearly all our troubles.

4156. Do you mind telling me what they are ?—The first one was that foremen should belong to the union. We contended that the foreman should not belong to the union unless he liked. We did not compel him to say that he would not belong to the union, and we debar no one belonging to the union, but we say that he should not be compelled to belong to the union, and our reason for that is that we often find that a foreman is somewhat penalised when he leaves his work and goes to his lodge and he has to be answerable for Tom, Jack, and Harry's discharge, although he has had nothing whatever to do with it.

4157. And that point has been settled now ?—It is settled so far, and I have sent you a copy of the new agreement. (Vide Appendices, p. 87.)

4158. This agreement is signed by Mr. Jessop, who is the President of the Federation of employers ?—Of the builders, and it is signed on behalf of my own Association by a past President.

4159. That is an agreement between the builders and plasterers ?—Yes, and the master plasterers.

4160. How does that affect the workmen ?—That is a common agreement between the workmen and ourselves.

4161. How do the workmen know of this agreement ?—Because they are parties to it ; it is signed by them as well.

4162. Yes, I see Jones, Hennessey and Deller : Deller is the general Secretary to the trade union ?—Yes.

4163. He has authority on behalf of the trade union to sign this agreement ?—Yes.

4164. If the trade union causes or encourages a breach of this agreement, do you not think the trade unions funds ought to be held liable ?—Yes.

4165. I may take it you find this agreement works well and as far as you can judge it will be observed on all hands ?—I should like to point out that this agreement has never been put to a test yet. It was only signed on our behalf in October last, but the two points that we, as employers, consider we gained in this new arrangement are contained in the first and last clauses. If you will read the first clause it refers to the foreman, and under the last clause it is arranged that we are only to pay the rate of wages in the town where we are doing the work. Previously, if, for instance, I had a job in Wales where the wages were only 8d. per hour and I sent Birmingham men down there, I had to pay the Birmingham men naturally the Birmingham rate of wages, but if I employed men down there belonging to the locality previous to this new agreement I should also have to pay them the Birmingham rate of wages.

4166. And that has been altered ?—Yes.

4167. Before this agreement which has been so recently entered into had you another agreement ?—Yes.

4168. When was that entered into ?—That was entered into after the lock-out of 1899.

4169. Did that work pay well from 1899 to the present time?—No, these two points were very serious points—the wages question and the foremen.

4170. Whilst that agreement was in existence between 1899 and 1904 were there any strikes?—Local ones, yes.

4171. Not important ones?—Not a general strike. That agreement was the result of a general lock-out in our trade in 1899, and in 1902 we decided as a body to withdraw from that agreement with the operatives, because we could not agree to this paying of extra wages. As master plasterers we do work probably from Birmingham, we will say, all over the country, and it was a serious thing for us to have to pay people at outside places such a rate of wages, and, moreover, we were confined to our own local rules wherever we were doing the work, and that was a very sore point with us.

4172. Now you have fortunately come to an agreement?—Yes.

4173. And the agreement has been entered into with the trade union, and you seem to think that it would be just and advantageous if that agreement were legally binding so that it could be enforced?—We take it that it is legally binding to both parties; that is the idea of the agreement.

4174. (*Chairman.*) Taking the new agreement, the matter which you have just referred to, namely, as to whether the local or the general standard of wages shall obtain, is in the 6th clause?—Yes, that is a new clause.

4175. Take the 2nd clause: “No employer shall engage any additional apprentices to the plastering trade whilst the number of his apprentices shall exceed one-fourth of the number of journeymen plasterers then employed by him.” You have agreed to that: have you agreed to it because you thought it was reasonable or because the union insisted upon it?—Well, it was forced upon us by the union.

4176. Do you think the union should have the right to force such things upon employers?—No, I do not.

4177. Would you prohibit them by law from doing it?—I think the employers should be at liberty to engage what apprentices they think best.

4178. Of course, in one sense you are at liberty; you might take a dozen apprentices, I suppose, on your premises now if you liked?—If we did that the union would not work for us.

4179. Do I understand that you would wish a law made by which it would be actionable if union men refused to work with you in the case of your employing more apprentices than has been agreed?—Having so recently agreed with our operatives, I should not like to say that I should like to go away from it directly. I may say that in hardly any case have we as many apprentices as we should have, and I think it would be quite a difficulty in London to find a bound apprentice to the plastering trade.

4180. Now take No. 4: “For the purpose of demarcation of work Joint Committees shall be established,” and so on. You have agreed to that; have you agreed to it because you think it right or were you compelled to do it?—We agreed to it more in the interests of the operatives themselves; it is not so much a question for us as for them.

4181. Is it not a question for you? I think in your particular trade the quarrel between the two trades has led to your being without workmen?—It has not so much to do with our trade, speaking as a plasterer; it has more to do with the operatives themselves. You see the whole contractor, we should call him the builder, the man who contracts to do the whole of the work including our particular trade work, might employ, say, the bricklayer to do a certain portion of work which would be the plasterer's work in the ordinary sense. Now we agree to the demarcation for the simple reason that it will assist in not causing any friction between the two branches of the operatives.

4182. I quite understand that, but do you think that by law the union ought to be at liberty to make rules for its own members as to the demarcation of trades?—No, certainly not; the demarcation should be agreed to between the employers and the workmen.

4183. Do you consider that the law should allow Trade Unions to make rules for the government of their own members which should have the effect of demarcating trades or preventing persons following another trade from interfering with the work of the union?—Yes.

4184. Do you go the length of saying that a workman might insist on any terms from his employer and that an association of workmen might do the same, however unreasonable?—It is somewhat unreasonable, but there must be some demarcation of work or else we should have a part of our trade, which legitimately belongs to our business, taken and executed by men who are not tradesmen at all.

4185. The masters have always got a certain remedy in their hands; they could refuse to employ the men who insist upon unreasonable conditions?—Yes, they could do so, but I do not think they would. I am speaking now certainly for my own trade.

4186. If they were very unreasonable conditions what have you to say?—Certainly if they were very unreasonable it might be different. There are such things now in some parts of England where the trade is quite different. To give you an illustration of the difficulty and how different the customs are in our small island, in Bradford a plasterer would point stone work and torch slating, while in Birmingham he would do no such thing. Another thing is that mostly through Yorkshire the plasterers do all the whitewashing. In the factories under the Factory Acts there is a compulsory cleaning of warehouses and so on, which is done by the plasterers, and outside of Yorkshire I do not think you could find that. It is all custom, and that is provided for in their local rules. We realise that in that district the plasterer would do that work which he would not be allowed to do in London.

4187. It cannot be denied that there is a difference in local customs. I see in your agreement you have this clause: “With regard to the alleged refusal of members of the National Association of operative plasterers to work with workmen who may not belong to the trade union, it is understood that the men the operative plasterers object to work with are defaulters and other men who have been shown to the employers to make themselves specially objectionable to the union men.” From that I infer that you would not think it unreasonable for the union to refuse to work with defaulting unionists or with men who are really personally objectionable on any ground, but you would think it unreasonable that they should refuse to work with non-unionists generally?—Yes.

4188. Do you think it unreasonable that they should refuse to work with non-unionists?—Yes.

4189. Why?—Because I think a man ought to have liberty to belong to the union or not as he pleases.

4190. So he has; no power can compel him?—In some parts of England unionists and non-unionists will work together, and in other parts they will not.

4191. How is the non-unionist compelled to join the union?—Well, he is not compelled to join the union, but it is a question of his seeking and finding employment.

4192. How are you compelled to raise wages?—Wages were raised some four or five years ago generally.

4193. But what is the screw which is turned to make you raise the wages?—They give notice to an employer for a rise of wages.

4194. Is the same screw not used to exclude non-unionists?—Oh no.

4195. Can they exclude them in any other way than that?—The rate of wages in a town is paid to the unionist as well as to the non-unionist, and to the non-unionist as well as to the unionist.

4196. Is not the only mode of compulsion, in fact, of the unionist to refuse to work?—Allow me to explain with regard to the raising of wages that every town has its local rules, and those rules cannot be altered under a given notice at a given time; and any alteration of a rule has to be made six months prior to its coming into force. If the operatives decide on a rise of wages they give the employers notice that on and after a certain date they expect the wages to be raised a stipulated amount.

Mr. George Soall.
14 Dec. 1904.

- Mr. George Soall. 4197. And if the wages are not raised, what then ?—
If no agreement is arrived at a lock-out takes place.
- 14 Dec. 1904. 4198. A strike you mean ?—Yes.
4199. Has the union any means of getting its own terms whether as to persons with whom they will work, or the hours they will work for, or the wages they will receive, other than by refusing to work ?—No, only under those circumstances. If trade is busy in the town and the employers are forced by those for whom they are doing contracts invariably they have to give way, and in the case of a reduction of wages we have just had a dispute lasting about twelve months where the employers have given the operatives notice that they would reduce the wages.
4200. I think I have got from you that workmen are free to name their own terms of employment ; of course, it remains for the employers to accept them or not ?—Yes.
4201. Nevertheless you wish to say that they are not free to say they will never work with a non-unionist, but they should be free to refuse to work with defaulting unionists or workmen personally disagreeable ?—They have, according to that agreement, explained and given their reason why they call themselves defaulters ; the employer has to be satisfied also.
4202. You can make any agreement you think fit, but taking the law as the law, do you think workmen should be at liberty under the law to refuse to work with a defaulting trade unionist ?—No, I do not think so.
4203. You think it should be actionable ?—I think so. I think they should be free the one to work with the other.
4204. But do you think the unionist should be liable to an action for refusing to work with a defaulting unionist ?—No, I do not think that, because if they do not like to work they stop out of work.
4205. Therefore if the law now makes it actionable you would have the law altered ?—If the law was to make it actionable ?
4206. (Mr. Cohen.) You do not want it to be actionable ?—No, my contention is, that if a man does not like to work with another man let him leave it.
4207. And if ten men do not like it they can all go ?—They can all go.
4208. (Chairman.) Turning to the general Rules of your Association, I notice you announce "General Principles" No. 13 (*Vide Appendices, p. 86*) ?—Yes.
4209. "The principles of this Association, being conciliatory to the operatives, it shall, in all cases of dispute with them, do its utmost by arbitration or otherwise, to avoid strikes or lock-outs, but if the operatives refuse equitable settlement of a dispute affecting any member of this Association, the matter shall be brought before the Executive Committee, and if they decide that the members interested shall be supported, then each branch, and every member thereof, shall do their utmost to help to bring the dispute to a successful issue, and shall loyally adhere to such rules as may from time to time be passed for that purpose, on the following lines: No member to employ any

workman who is "on strike" or "locked out" in disputes sanctioned by the Executive Committee, and affecting a member of the Association. The Executive Committee to have power to send appointed agents to inspect the books of any member during a dispute as to the names of men employed, and if they find any strikers employed to request him to discharge them ?"—Yes.

4210. Do you consider that is a rule which the law sanctions or not ?—I could not say that the law sanctions it.

4211. Does the law forbid it ?—The law does not forbid it.

4212. You think not ?—No ; that is only just a counter action to the operatives because they do the same ; they give notice wherever there is a dispute and say the workmen should not start in that particular place.

4213. I suppose the workmen may say their action was a counter action to yours, but if you consider that the members of your Association have the right to circulate lists, and to induce other employers not to employ the men on strike, I suppose you would allow the same liberty to the men that they should induce, by any lawful means, workmen not to work for an employer ?—Certainly

4214. And also just as employers during a lock-out assist each other so you would see no objection, I suppose, to a sympathetic strike—one strike supporting another strike ?—Certainly not.

4215. (Mr. Cohen.) You have been good enough to furnish us with a copy of the agreement which has been recently come to, and I find that it is agreed that before any strike or lock-out can take place certain proceedings must be had before a committee of employers and the members of the Operatives' Union ?—That is correct.

4216. In order that time may be given for a reasonable settlement to be come to before the strike or lock-out takes place ?—Yes, that is quite necessary, because the operatives might take some action that their executive would not consider they were justified in taking, and an employer might take some action that his fellow-associates would consider he was not justified in taking, and therefore they meet and discuss this matter.

4217. And you have found that these discussions constantly lead to settlements ?—Yes.

4218. Have you anything else you would like to say to us ?—No.

4219. Do the rules and agreement we have been discussing relate to the Federation or to the Association ?—They belong to the two, the Federation of Builders and the Association of Master Plasterers ; we are jointly parties to it. In many parts of England the master plasterer gets his work direct from the client or architect, and in other parts of England he simply takes it as a sub-contractor from the original contractor ; that is because of the different parts of the country having different customs, and they are so widely different that you would hardly credit what a difference a hundred miles makes.

Alderman W. HICKSON, President, and Mr. A. E. W. CHAMBERLIN (Solicitor), Secretary of the Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland, called and examined.

Alderman W. Hickson. 4220. (Chairman.) (To Alderman Hickson.) You are the President of the Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland ?—I am.

Mr. A. E. W. Chamberlin. 4221. And you have sent a *précis* of your evidence to the Secretary ; I hope you will allow us to use it ?—Certainly.

The Statement is as follows:—

That the provisions in the Bills (of which you sent me copies *Vide Appendices, pp 7 and 8*), relating to the legalisation of peaceful picketing, if they became law, would prejudicially affect boot manufacturers in the conduct of their business by practically closing their factories in case of strikes and trade disputes against workers who otherwise might be willing

and anxious to work. Our experience of picketing as practised by the National Union of Boot and Shoe Operatives during the strike in the various centres of the trade, which took place in 1895 and lasted for about two months, showed that picketing a factory means closing it, and that the action of pickets cannot be confined to peacefully obtaining and communicating information or peacefully persuading persons to abstain from working, because it is invariably attended by intimidation to those who are not persuaded.

That picketing if legalised, and the restriction of actions for interfering with business contracts as proposed in these Bills, would enable any person, or combination of persons, in connection with a trade dispute, to attend as of right at the factory of a manufacturer, the shop of a retailer, or the chambers of a professional man, or their

residences, or the houses of work-people, for the purpose of persuading the public not to do business with or employ them, and we consider that such action is a common law nuisance and a wrongful act under the existing law and should remain such, and that the persons so attacked have, and should continue to have, a legal remedy by action for damages and injunction not only against the individuals so acting but also against the organisations on whose behalf they act.

That the general conspiracy law should not be modified in favour of trade combinations as proposed in the Bills, because this would be legislation in the interests of a particular class to the detriment of the general community and to employers in particular.

With reference to the proposals in these Bills prohibiting actions against trade unions and protecting their funds, we contend that the funds and property of all organisations ought to remain answerable in damages for the wrongful acts of their agents as defined by the recent decisions of the Courts to which the trade unions object.

For upwards of ten years the Boot and Shoe Manufacturers' Federation in conjunction with the National Union of Boot and Shoe operatives have been making arrangements for regulating the relationship of employers and employed and for defining the rights and obligations of capital and labour in the trade, and it is considered that the arrangements in the boot and shoe trade contained in the Terms of Settlement of 1895 and the trust deed are the best arrangements at present existing in any trade for the purpose of effecting a settlement of labour disputes by peaceful methods.

These arrangements mutually devised by the employers' and workmen's organisations for the prevention of strikes and the settlement of disputes, embody carefully defined methods of conciliation and arbitration with the provision of a financial guarantee for securing the due observance by both sides of agreements, decisions, and awards.

That these Bills would discourage the peaceful settlement of disputes by arbitration and conciliation, would tend to check the development of the education of the people in this direction, and would rather encourage them to adopt the old discredited methods of conducting trade disputes by striking, picketing, intimidation, and conspiracy, as the Bills would enable them to adopt such methods with impunity, and their unions and leaders to organise and carry them out free from financial responsibility.

4222. On the subject of peaceful picketing you know what the law is now, I daresay?—Yes, I am fairly well acquainted with it.

4223. That watching and besetting a house is usually prohibited?—Yes.

4224. But attending for the purpose solely of obtaining or communicating information is permitted?—Yes.

4225. Therefore watching or besetting a house for the purpose of peacefully persuading is not permitted?—No.

4226. Do you wish to see that clause altered in any way?—It is a little difficult to draw the line between what is lawful and what is unlawful.

4227. Do you wish the law as it stands now to be altered?—No, I think not.

4228. Do you think peaceful picketing should be permitted?—I do not think peaceful picketing is possible.

4229. Do you think picketing for the purpose of obtaining or communicating information ought to remain lawful?—Well, if it could be confined to that there would be no objection, but the difficulty is when feelings are roused in time of a dispute to limit it to that.

4230. I must ask you to decide whether it can be confined to that or not?—I say positively it cannot.

4231. Therefore are you of opinion that that provision in the Act of Parliament should be repealed?—I think it would be desirable—yes.

4232. Are you conversant with the Taff Vale decision?—Yes.

4233. Do you think that should stand?—I think it should.

4234. You think that trade unions, like other persons should be answerable for the acts of their agents?—I think so.

4235. (Mr. Cohen.) I see your association is incorporated?—Yes.

4236. What is the purpose of your Federation. I see one purpose is to carry into execution a certain indenture dated March 1898?—I should like to explain that the Federation is a federation of Associations, not of individuals. Each centre in our trade has its own association, and for general purposes, we are federated together in this incorporated body.

4237. For what purposes?—They are set out in the articles which are before you; there are nineteen "good purposes." We deal generally with matters in dispute between the employers and their workpeople, and there are other matters which are of general interest to the trade. At the present moment we are engaged in endeavouring to get reasonable terms for machinery on lease, and an action is now pending and will come on for hearing on the 15th of February before the privy council; that is being carried on by the Federation, and we are also negotiating with reference to shipping charges and matters of that sort, matters which are of general interest to the trade and of advantage for promoting the good of the industry generally.

4238. How do these questions come before the privy council?—Under the Patents Act, 1902, sec. 3.

4239. You were the arbitrator for the employers on the London Board of Arbitration?—Yes, some years ago.

4240. Did you find that London Board of Arbitration work pretty well?—Yes, it is not so operative as the boards in Leicester and Northampton.

4241. Do you generally find that the awards when made are carried out?—Yes, speaking generally, they are. We have a deposit under the terms of settlement of £1,000 made by the manufacturers and £1,000 made by the national union in the hands of trustees.

4242. That is under your system of arbitration?—Yes.

4243. Is that the London system?—No, that is the general system of the Federation representing the whole of the centres.

4244. And under your system and in accordance with the articles of association a deposit is made by both parties to the arbitration?—This money is deposited and remains on deposit and in the event of an award being given by which a sum passes from one to the other the defaulting side have to make up the amount to £1,000, so that the Trustees have always £1,000 in hand from each side. It is generally done by the one party paying the other the amount. Lord James of Hereford, I may say, is the umpire in this matter.

4245. And you find that works quite satisfactorily?—It works exceedingly well; we consider we have achieved a considerable success in our trade.

4246. Where shall I find that system of arbitration described?—(Mr. Chamberlin.) A copy of the trust deed is contained on pages 28-30 of the small book of official information which I now hand in (*handing in a small red book entitled "The Incorporated Federated Associations of Boot and Shoe Manufacturers of Great Britain and Ireland—Official Information concerning the Federation and the Agreements, Decisions and Awards of General Application affecting the Employment of Labour in the Federated Districts of the Boot and Shoe Trade."*)

4247. So that you hope you will not be troubled with strikes?—(Alderman Hickson.) Yes, we hope we shall not be troubled with strikes, but we have been endeavouring to educate the working people into the belief that arbitration is better for them than the arbitrament of war, and we think if these Bills became law it would tend to induce many of them to go back to the old and barbarous methods rather than to the more civilised methods we have been endeavouring to introduce into our trade.

4248. In fact I may take it, I think, from what you have said, that you think it important that the funds of a trade union should be made liable for wrongful acts done by the agents of the trade union, of course within the scope of their agency?—Yes.

4249. That you think very important?—That I think most important.

4250. You think it also important that all wrongful intimidation should be made a criminal offence and should be checked as thoroughly as possible?—I think so, decidedly.

Alderman W. Hickson,
Mr. A. E. W. Chamberlin.
14 Dec. 1904.

Alderman W. Hickson. 4251. And if those two things were accomplished you would be quite satisfied?—Yes.

Mr. A. E. W. Chamberlin. 4252. (*Chairman.*) You have been good enough to furnish us with the Rules of the Federation; there is no provision made in them for mutual assistance in case of strikes, is there?—The terms of settlement which were made after the strike in 1895, which was a strike that took place in all the centres of our trade, were arranged at the Board of Trade, with the late Sir Courtenay Boyle in the chair, and those Terms of Settlement provided that arbitration Boards should be set up in each centre.

4253. But what I wished to ask you was whether the rules provided in any way for the Federation assisting members of the Federation in case of a strike in their works?—Oh yes, that is one of the objects of the Federation; we are mutually bound to each other.

4254. There is no rule on that point, is there?—(*Mr. Chamberlin.*) Yes, it is No. 3 (2) of the Memorandum of Association. I think, "To enable Associations for the time being and from time to time of boot and shoe manufactures to federate or co-operate," etc.

4255. But you do not specify the amount of co-operation?—In No. 3 (3) "to promote the settlement of disputes by conciliation or arbitration, and to assist in the formation, development and maintenance," etc.

4256. That does not meet my point. Say that the Federation consists of the letters of the alphabet and there is a strike on A, do B, C, and D, the other members, contribute to A?—Not by a direct levy on the other firms. (*Alderman Hickson.*) They would assist them by locking out their work people.

4257. You do lock out. If you think that the employers may assist each other by locking-out, I suppose you would think that it should be lawful for the trade unions to assist each other by sympathetic strikes? Do you understand me?—That is rather a difficult question for me to answer. If we are to carry on our business in a state of warfare between the two we cannot help them getting allies, and we think we are quite justified in getting allies ourselves, but the very object of the existence of the Federation which I have the honour to represent is that strikes and lock-outs should not take place, and we have established a system under which it is practically impossible.

4258. It is very admirable and it is the result of agreement, but the law unfortunately has to provide for cases in which there is no agreement and the question is what shall the law allow and what shall it prohibit? You do not propose, do you, that the law should prohibit one employer locking out in support of another?—No, I think not.

4259. Would you therefore prohibit one set of men striking in order to assist another set of men who are on strike?—No, I cannot see that you can.

4260. (*Mr. Cohen.*) Referring to Article 19, you cannot impose on any of your members and you cannot support with your funds any regulations which have for their object to make the Federation a trade union?—That is so.

4261. (*Chairman.*) I see in this little red book of Official Information which you have handed in there is, at pp. 10 to 12, an Award of Lord James of Hereford, and No. 1 is that "in respect of the work carried on by clickers, pressmen, lasters and finishers, employers of labour in shoe factories and workshops shall, in each department respectively, be restricted in the employment of boys, under eighteen, to one boy for every three men employed," do you consider that unions should be at liberty to endeavour to bring about restriction of labour in that way?—I am not at all favourable to that, but of course it was an Award and we have to abide by it.

4262. Would you say that as the law now stands it is open or that it is not open to unionists to enforce the restriction, so far as they can enforce it, by a strike?—I am afraid I am not a lawyer and it is a very difficult question to answer.

4263. If it is forbidden by the law at the present time then, nevertheless, that great lawyer Lord James of Hereford has imposed a condition on the subject?—He has;

of course we opposed it, but it is a compromising decision; they asked for a good deal more and we fought the whole principle.

4264. Would you say as a general rule that it is open to masters to propose any unreasonable terms to workmen and for workmen to propose any unreasonable terms to masters and that neither of them should be answerable in an action for damages for that? They may settle their grievances as they can?—Yes, I think so.

4265. You agree to that?—Yes, I think so; but they should be answerable in an action for damages if they seek to enforce such terms by unlawful means.

4266. (*Mr. Cohen.*) Is there an agreement of reference—a submission to arbitration? When there is a dispute and when it is referred to arbitration, or is to be settled in any way, is any agreement drawn up generally?—I do not think it is formally drawn up as provided in the Arbitration Act. Of course the questions in dispute are first of all heard before the Arbitration Board and they then go before the Arbitrators who, if they are unable to agree, either appoint an umpire or, if not, the Board of Trade do so. The questions for decision are of course reduced to writing, but I do not think there is any form of submission.

4267. That I shall find set out more fully in that little red-book which has been handed in?—Yes.

4268. Is any trade union of workmen a party to such an agreement and to the arbitration?—The National Union of Boot and Shoe Operatives are parties to the agreement and they deposited half the monetary guarantee.

4269. So that the agreement is an agreement between the Workmen's Trade Union and the Federation?—Yes, and it is only fair to say that they have been very loyal indeed in carrying out the awards; we have nothing to find fault with in that way, but we have experienced great difficulty in dealing with unauthorised strikes not supported by the Union.

4270. (*Chairman.*) Is there anything more you wish to say?—No, I think there is nothing more.

4271. (*Mr. Cohen.*) I think you did say that you object to these new Bills to a great extent upon the ground that they will really operate unfavourably to that course of conciliation and arbitration which you have found so successful in averting strikes?—Yes, there are also other objections which might be taken. There is no definition in the Bills as to what is a trade dispute, and there is no definition as to what is a trade union, because it says in one of the Bills that it may be registered or unregistered. The point I wish specially to make is that peaceful persuading is an impossibility, and on that I speak from experience of our 1895 strike, of which I have a few particulars as to cases which came before the magistrates, a man in one case being sent to prison for a month for intimidation.

4272. (*Chairman.*) May I ask did the magistrates show sufficient energy and severity in dealing with the cases?—As a matter of fact they sent one man to prison for a month, and we prosecuted a second case which they would probably have dealt with in the same way, but I urged that we did not wish to be vindictive in the matter and they reduced the sentence to a small fine.

4273. (*Mr. Cohen.*) Were these proceedings before the magistrate taken under the Act of 1875?—I could not tell you that. The case in point was a man named Samuel Furness who was followed by a hundred people from his work through the streets of Northampton and was hooted and hustled, and his windows were broken. I find that there were two men sentenced to a month's imprisonment in connection with that.

4274. (*Mr. Chamberlin.*) I think it was most probably on the ground of intimidation or of watching and besetting under the Act of 1875.

4275. Or persistently following?—Yes.

Mr. JOSEPH CARDWELL called and examined.

4276. (*Chairman.*) You are General Secretary to the Association of Non-Unionists?—Yes.

4277. You have sent us a *précis* of your evidence, and you will permit us to make use of it?—Yes, it is as follows:—

I beg to give you a preliminary statement of my views, relative to the Bills (*Vide Appendices, pp. 7 and 8*) to amend the law, relating to trade unions and trade disputes, as presented by Sir Charles Dilke, Mr. Shackleton and others.

I firmly believe, if the said Bills, presented to Parliament in the interest of the workmen's organisations, were passed into law, they would be prejudicial to the interest of employers of labour, and to those workmen who desired to enjoy "freedom of action" in respect to making "contracts with their employers."

As to the proposal to allow what is called "peaceful persuasion," I hold that every individual has a right to protection from the actions of the tyrannical trade unionists, and there is no reason why a trade union should have exceptional power to congregate, either individually or collectively, to persuade, or to obtain information, from those workmen who would be acting within their moral and legal rights; and I believe that if the Legislature allowed a Bill to become law to legalise "peaceful picketing," it would undoubtedly become a very serious nuisance, and would without doubt develop into serious cases of violence, and interfere with individual liberty and freedom, the "birthright of every British subject." It would become a public nuisance, and in many cases damage to property and persons would be the result.

The question is really, is it, and ought it to be lawful for workmen on strike to watch for and interfere with workmen who come to take their places, and fill the positions which they (the trade unionists) have vacated? This is what is technically known as "picketing." The only practical reason that men who are on strike have for meeting other workmen who are coming to take their places, or are remaining at their work, is to coerce or intimidate them.

In ordinary strikes in works, especially large works, it is less and less common for the employers to try and replace the men on strike by new labour. In more advanced or higher skilled trades it would be more difficult to get qualified workmen in any numbers, therefore, the employer's usual course is to reserve his strength to enable him to hold out longer than his workmen, but in the case of a strike on a railway, or tramway, or in gas or electric lighting works, where the safety of the public is involved, it is important that the work should continue at all hazards. For a large city or town to be without light or travelling facilities for even a week would be a most appalling calamity, therefore to allow a Bill such as is presented by Sir Charles Dilke, and others to become law, to legalise the peaceful conduct of trade disputes, and to alter the existing law affecting the liability of trade unions, would be no other than to cause a universal calamity, and Parliament ought not, without the gravest consideration, to pass an Act to make strikes and lock-outs of this kind any easier.

Strikes are a fearful injury to the trade of the country; they cause great and widespread loss and suffering, and the more they are restricted and made difficult, the better for everybody. If the clause in the Bills dealing with the responsibility or liability of trade unions became law, trade unions would be privileged, and would authorise or induce their members or agents to persuade the non-union workmen under threat to wrongfully break the contracts with their employers without incurring any financial responsibility for their wrongful acts.

Clause I. of Mr. Shackleton and Mr. Paulton's Bills (*Vide Appendices, p. 7*) contains the words "Peacefully obtaining or communicating information" and "peacefully persuading" any person to work or abstain from working.

Experience of "peaceful persuasion" has shown that the term is a misnomer, and that the real object, indeed the real act, of the "persuader" is intimidation pure and simple. This clause empowers persons to attend "at or near a house, or place, where a person resides, or works or carries on business, or happens to be" that is to say, a workman may be subjected to annoyance, and may

be intimidated even in his private house; thus, whereas at the workplace the strikers could only act on the workman's fears, they could, by attending at his private residence, disturb the peace of the workman's family, and of his neighbours, until he was reduced to subjection.

It is simply an attempt on the part of trade union leaders to legalise their acts, of intimidation and to terrorise workmen who are willing to work and who will not obey the dictates of labour unions.

The truth is that to watch or beset a man's house, with a view to compel him to do, or not to do, what it was lawful for him not to do or to do, is wrongful and without lawful authority, and such conduct interferes with the ordinary comfort of human existence and the ordinary enjoyment of the house beset, and would support an action for nuisance at common law; and proof that the nuisance was for the "peaceful persuading" of other people would afford no defence in such action.

The first clause of Section 7 makes clear the beneficent intentions of the Legislature in framing the Act of 1875, with the view of safeguarding and protecting labour more effectively than that done under the Trade Union Act of 1871, which was repealed by the "Conspiracy and Protection of Property Act of 1875." The chief blot in the Act of 1875 has been shown by long and bitter experience to be embodied in the second clause of Section 7, and yet incredible as it may seem, that clause is a qualifying clause, "Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section." In reference to this obvious blunder on the part of the Legislature, it must be plain to any one that this qualifying clause, which is held by trade unionists to justify picketing, lies at the root of all the evil that springs from the lawless methods of industrial warfare it is erroneously supposed to sanction, and has proved a prolific source of injustice to individuals as well as a great public danger. Its elimination, therefore, from the Act of 1875, ought now to be insisted upon.

4278. I suppose you have printed rules of your association?—We have not got the rules printed yet; we have them only in writing.

4279. Have you got them with you?—No, I have not got them with me, but they are ready for the printer.

4280. Would you let us see your rules, or send us a copy of them?—I can send you a copy. (*The Rules were subsequently sent in, and extracts therefrom are printed on p 87, Appendices.*)

4281. The first point I think you make is, that you are opposed to peaceful picketing being sanctioned by law?—It all depends upon whether it is peaceful picketing or not.

4282. Are you in favour of the proposition contained in several of these Bills, that attending at a house for the purpose of peaceful persuasion shall not be deemed watching and besetting the house?—No, I oppose that.

4283. Is it your experience that picketing is usually conducted peacefully?—I have never experienced yet that picketing has been done peacefully, because by numbers they can act upon the fears of the workmen without words and without action. By more than one following a workman from his employment, they can act upon the fears of that man.

4284. Following him through the streets, I think, is made punishable now?—Yes, but the clause they are bringing forward is that they want to be justified in following so long as they use no violence.

4285. However, you are opposed to the proposal that picketing for the purpose of persuasion should be lawful?—Yes.

4286. The next point is the Taff Vale case. Have you read that case?—Yes, I have read part of it.

4287. Are you in favour of the general principle on which that case is based?—That is exactly as I wish that it should be.

4288. And as you think it ought to be?—Most decidedly.

Mr. Joseph Cardwell.

14 Dec. 1904.

Mr. Joseph
Cardwell.
14 Dec. 1904.

4289. In your *précis* you speak of the Bills as authorising or inducing the members or agents of a union to persuade the non-union workmen under threat to wrongfully break their contracts with their employers without incurring any financial responsibility for their wrongful acts. I suppose you do not lay stress on those words—you do not assert that those words are accurate, do you?—Well, I think in that case I should lay stress upon them.

4290. Do you think the Bills do in any way sanction individual workmen committing a breach of contract or any act in itself wrongful?—I think it is giving the trade unions a privilege which it is not necessary to give them.

4291. (Mr. Cohen.) You have read these Bills?—Yes, I have.

4292. Do you assert that these Bills authorise workmen to wrongfully break their contracts with their employers without incurring any financial responsibility for their wrongful acts? Do you assert that that is really the effect of the Bills?—I think they would lead to that.

4293. How do you prove it?—Because, if they are allowed to communicate and persuade, we know that the weaker vessel will give way and unlawfully break his contract with his employer.

4294. Then they would be liable, notwithstanding, for the breach of contract; there is no breach of contract authorised by any of these Bills. One may object to these Bills, and I do to a great extent myself, but you must deal fairly with them. These Bills do not authorise, as far as I can see, any breach of contract. How long has your association been in existence?—Since June, 1903.

4295. How many members has it?—We have registered just over 3,000.

4296. Do those members contribute funds?—Not all of them.

4297. Any?—We just register men out of employment—non-society men—so that we can find non-society men employment. It is simply on the same lines as the Free Labour Association.

4298. I do not know much about that; I want to know what your Association does. Does it engage non-union workmen?—We register the names for employment of strictly non-union workmen, financial and non-financial members, so that we can have a number of men ready in case of a dispute.

4299. Ready to do what?—Ready to go into work if there is a dispute, and we also assist non-union workmen in gaining employment when there is no dispute.

4300. Do you supply employers?—We have supplied nearly 500 within twelve months.

4301. And does your association get paid by the employers?—We supplied three firms with workmen while a dispute was taking place—namely, The Blyth Shipbuilding Company, Messrs. Parsons' Steam Turbine Company, and The Mercantile Docks Company, Jarrow-on-Tyne, and I received three subscriptions, subscriptions on two occasions from the Blyth Shipbuilding Company, and one subscription from Messrs. Parsons, but nothing from the Mercantile Docks Company.

4302. Those are all voluntary subscriptions?—Yes.

4303. Do you not expect to be paid anything if you supply employers with labour?—No, we supply them free of charge, expecting a voluntary contribution from them.

4304. Do you levy any contribution on the members of the association?—We do on the association's financial members.

4305. What do you mean by financial members?—Those attending the meetings and who register for being members of the association and not merely registering for employment. A great many come just to register their names for employment.

4306. What do the financial members do?—They take part in the elective and other business of the association.

4307. What interest have the financial members?—We hold our meetings every month, and the financial members have a voice in all the matters that crop up before the association.

4308. What interest have they in the matter if they are not workmen?—They have an interest in this way, that they are the first to receive employment.

4309. They are workmen?—Yes, they are all workmen.

4310. And what is the difference between the financial and the non-financial members?—The financial members have a voice in all matters with regard to the association.

4311. Are they elected as financial members?—They receive their subscription card, and that denotes that they are financial members.

4312. There are certain members who subscribe, and those you call financial members?—Yes.

4313. How many are there of these?—About thirty or forty.

4314. How much do they subscribe?—2s. a year.

4315. And the other members do not subscribe anything?—They register their names simply to obtain employment.

4316. And the work of your association is to provide employers on certain occasions with workmen?—Yes, that is exactly it.

4317. And you expect to be remunerated by the employers?—Yes.

4318. Do you find that the remuneration exceeds the expenses?—We are not in debt at present.

4319. Are you indebted, or are you financially in a sound condition?—We are financially sound at present; we are not in debt at the present time.

4320. You have a surplus?—We have no surplus; in fact there is not much expense caused against the society.

4321. You have no surplus?—No, but we are not in debt.

4322. So that you have no property?—Well, we cannot call what we have property.

4323. And no capital?—No; of course we have only been established twelve months.

4324. You will try and furnish us with the written rules of your association?—I will. See Q. 4280.

4325. (Chairman.) Have you anything else you would like to say?—No.

4326. Your principal points, we understand, are that you are thoroughly opposed to the authorising of peaceful picketing, and you are opposed to tampering with the Taff Vale decision?—Yes.

4327. (Mr. Cohen.) Were you ever a member of a trade union?—Yes, I was for seven years a member of the Amalgamated Society of Engineers.

4328. And you left it?—Yes, I left it about ten years ago.

4329. And after you left it did you remain an engineer?—Yes.

4330. Are you still an engineer?—I am still an engineer.

TWENTY-FIFTH DAY.

Thursday, 15th December, 1904.

PRESENT.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B. (*in the Chair.*)

Sir WILLIAM THOMAS LEWIS, Bart.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M., (*Secretary.*)

Sir GEORGE LIVESSEY, M.I.C.E., M.I.M.E., called and examined.

4331. (*Chairman.*) You are Chairman of the South Metropolitan Gas Company. I understand?—I am.

4332. You have been good enough to send to our Secretary this *precis* of the evidence you are prepared to give?—Yes, I am afraid it is ancient history.

4333. And you are willing that we should make what use of it we think right?—Certainly.

The Statement is as follows:—

Witness has from early life been in close contact with workmen, but his experience has been chiefly confined to the Gas Company of which he was for many years the chief executive officer.

He has had personal knowledge of two strikes of Gas Stokers, the first in December, 1872, extended to most of the London Gas Companies, but it fizzled out in three or four days. There was no picketing. It is only mentioned because to it was due the clause in the Conspiracy and Protection of Property Act which made it a penal offence with three months' imprisonment for servants of Gas and Water Companies to break a "contract of service." As is usual with employers when the danger is past, very few, if any, of the companies made such contracts. Consequently when the time of trial came in 1889 with the rise of the Gas Workers' Trade Union, the Gas Companies were at their mercy. They could call out their members on giving the usual week's notice. This was too short a time for getting new men, and as the supply of gas could not be stopped without grave public danger, the companies struck against, or who received a week's notice, had to succumb, the South Metropolitan Gas Company among the number, in September, 1889.

In December notices were again given to the South Metropolitan, who were then prepared, and the strike took place, 2,000 stokers going out on the 12th and some 6,000 new men entered on the 13th. All the strikers and hundreds of sympathisers organised themselves into large bands of pickets at the entrance of the six works of the Company, at the railway stations, and in the streets. Nearly 3,000 police, horse and foot, kept the peace and enabled the new men to enter the works, where for four or five weeks they were housed and fed. For two months the union maintained the system of picketing, and some forty of their number were sentenced to terms of imprisonment. The Coal Porters' Union called out all their men without notice on the 13th and thus stopped the unloading of the companies' colliers. The Lightermen's Union ordered a strike and picketed the river. The Seamen and Firemen's Union called out their members from the company's coal ships, but the coal miners would not strike. Directly and indirectly the cost to the Company exceeded £100,000. Of this sum at least half was due to picketing.

If any of the Trade Union Bills (*Vide Appendices, pp. 7 and 8*) became law it would be a direct encouragement to repeat the above at any gas undertaking in the Kingdom that had not taken the precaution to enter into a contract of service with their workmen. The trade unions object to such contracts unless all the contracts with the individual workmen expire at the same time. Even with this concession the union dislike them. They

have with some important companies agreed to a month's notice on either side at any time.

Judging from the mischief done during the running of the week's notice of the South Metropolitan, it is probable that in a month the works would be rendered unworkable. During the week a large force of police were on duty night and day to prevent destruction to the company's property.

If any of those Trade Union Bills passed, all the above named preparations and precautions by the companies and the police would be necessary to keep the works going and thus save the public from enormous inconvenience, and the community from disaster and danger.

Witness considers that the protection against strikes given to Gas and Water Companies by the clause referred to in the Conspiracy and Protection of Property Act, should be extended to all undertakings such as railways, etc., where constant and regular working is a public necessity, and where a stoppage would be a public danger.

All the Trade Union Bills are stated by their promoters to be for the purpose of legalising "peaceful" picketing, as if this were not legal already. It is sheer hypocrisy to talk of peaceful picketing when the number of the pickets is unlimited. The use of the word "peaceful" can only be intended to deceive the ignorant. Many Members of Parliament have had no experience of strikes.

Witness has read in *The Times* the reports of the evidence already given, especially that by Mr. Beasley of the Taff Vale Railway. Witness is in entire accord with Mr. Beasley, and cannot add in any way to the clear and forcible statements made by him.

So far as the two gas companies of which witness is Chairman—the South Metropolitan and the South Suburban, late the Crystal Palace District—are concerned, a strike is, he believes, unthinkable, impossible. No trade union has any power or influence in either company. Unionists are not excluded, they are simply ignored. The company makes contracts of service (*Vide copy of agreement on p. 249 post*) generally for twelve months, individual agreements expiring and renewed every week throughout the year, therefore no appreciable number of men can leave at the same time. But in addition and more important as a safeguard, very nearly all the company's regular employees, over 4,500 in number, of all ranks, are holders of the company's ordinary stock under the co-partnership system; in many cases their whole savings are so invested. For these reasons witness considers a strike or any trouble from trade unions is quite out of the question with these two companies and one or two others. Some other companies have adopted the system of agreements or contracts of service with or without a cash bonus, and are therefore fairly protected. There are, however, many in an unprotected condition and they would, in the event of one of the Trade Union Bills becoming law, be in at least as unsafe a condition as that of the companies generally in 1889, when they were at the mercy of the Gas Workers' Union. Witness thinks the contract of service clause in the Conspiracy and Protection of Property Act does not go far enough in view of the objections of the trade unions to all such contracts and the supineness of the companies. Men

Sir George
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15 Dec. 1904.

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who enter the services of public companies in which any break in the continuity of supply to the public would be disastrous, such as the stoppage of a great railway or putting a town in darkness, ought not to be permitted to strike. With such companies a lock-out is impossible—it has never taken place with a railway, gas, or water company.

The Legislature, in the interest of public safety, should do what it can to make strikes impossible, just as lock-outs are impossible with these companies. Such companies are in a totally different position to that of ordinary companies or businesses such as iron-making, ship-building, engineering, and many others, even including docks, where the business generally stops on the occasion of a strike or a lock-out until employers and employed come to terms and the old hands go back and work is resumed.

Prior to the gas strike, when it was seen to be imminent, witness applied to the then Chief Commissioner of Metropolitan Police for protection and assistance in certain contingencies.

The reply of the Chief Commissioner was :—

"I will give you all the help and protection in my power within the law. I say within the law. Yours is a totally different case to that of the London Docks strike, for the stoppage of work at the docks for a month was not a danger to the public, but a stoppage of the gas supply of South London for only a few days would be disastrous."

He was as good as his word, and by the admirable arrangements made at headquarters, ably carried out by the Chief Constable for South London, not only were the company's works protected, but the 6,000 or more men were conducted into the several works on the 13th December, to use the Chief Constable's words, "without a broken head."

Although the stoppage of ordinary businesses may not be a public danger, witness cannot see why, in the case of a strike, they should not be permitted to engage other men who are willing to work for them.

It is absolute nonsense to talk in these days of newspapers, general and local, of the necessity to beset the works and workmen where a strike has taken place for the purpose of "peacefully obtaining or communicating information." But supposing this were necessary there is no necessity for "any person or persons," an unlimited number, to attend for that purpose "at or near a house or place where a person resides or works or carries on his business." The object is intimidation and nothing else. This was the object of all the pickets at the time of the South Metropolitan strike, though it was carried out with a certain amount of fear and trembling by the pickets.

If either of the Trade Unions and Trade Disputes Bills were passed, the so-called peaceful picketing engaged in by bodies or bands of men is, and must mean and be, intimidation. It would be much more boldly carried out than it ever has been, the pickets having the distinct sanction of the law.

Witness, since writing the foregoing, has again carefully studied and considered the Bill (No. 8) introduced by Mr. Paulton in 1904, and the Bill (No. 91) introduced by Sir Charles Dilke.

The first remark to be made is that on none of the Bills, either last year or this, was Thomas Burt's name to be found, and the names of Mr. Fenwick and Mr. John Wilson (Durham), though on the back of Mr. Shackleton's Bill of 1903, are absent in 1904.

As to Clause 1 in Mr. Paulton's Bill, witness is convinced that by the words "any person or persons," the promoters claim nothing less than the right to attend in unlimited numbers "at or near a house or place where a person resides or works," . . . "or happens to be," for the sole purpose of intimidation. That a man willing to work in this free country should be exposed by the action of Parliament, which would be the case if this Bill became law, to be beset at his house or in the street by a body of men whose object would be in one way or another, to prevent him working, would be an outrage on freedom.

It is utter nonsense to give as the reason for this besetment the "peacefully obtaining or communicating information." If that were all, one, or for the sake of company, say, two men would be amply sufficient, but in the case of a small business even two pickets are sufficient for intimidating, the concession of two is therefore perhaps too liberal. If that were the honest object of the promoters they could not object to the following amend-

ment to Clause 1 :—After the word "for" in line one omit the words "any person or persons" and substitute the words "not more than two persons," and after the word "attend" in the fourth line omit all the following words, ending with "to be," and substitute the words "at the gate of the place where a person works"—(1) for the purpose of peacefully obtaining or communicating information."

The above sub-section might then stand. Of course pickets endeavour, by hook or by crook, acting on the assumption that "all's fair in war," to get information, true or false, as to how the work is going on inside the works. They use this as best suits their purpose of stopping the workers and the work, but as to giving information they can tell (if they speak truly) the workers nothing they do not know, and the rest is simply calculated to deceive them and to withdraw them from the works. After the new men at the gas strike had settled to the work and were anxious to make their homes in the neighbourhood, the pickets made it their business to advise the occupiers of houses where lodgings might be obtained not to admit any men from the Gas Works because they were verminous. This is a sample of the information given by the pickets.

With regard to clause 1, sub-section 2, "For the purpose of peacefully persuading any person to work or abstain from working;" this sub-section ought to come out. What business has any man to persuade another either to work or to abstain from working? If information as to the facts be given, or is possessed by him, he should be left free to decide whether to work or not. This so-called peaceful persuasion means intimidation and nothing else, and should not be allowed.

With regard to clause 2, action by one or not more than two persons would probably be quite harmless and legitimate but such action by "more persons" could and would in all probability mean a gross interference with the liberty of the subject and ought not to exempt a trade union in a trade dispute from an action at law.

As to clause 3, the law as declared by the House of Lords in the Taff Vale case is just. All other organised bodies are responsible for the action of their agents, and there is no reason or justice in the exemption of trade unions.

Referring to Sir Charles Dilke's Bill of 1904. Witness's remarks on Mr. Paulton's Bill apply equally to Clauses 2, 3 and 4 of Sir Charles Dilke's Bill, but Clause 1 is a more barefaced attempt to legalise for trade unions, acts that in any other case would be actionable. That trade unions should be authorised and empowered "to interfere either with the exercise by another person of his right to carry on his business or with the establishment or continuation of contractual relations between "other persons" is an outrage on justice and common sense. (The italics are witness's.)

If such powers were granted the contracts of service made by the South Metropolitan Gas Company would be rendered null and void if the men at the instigation of a trade union were induced to break them and to come out on strike.

The trade unionists declare that with picketing, restricted as it is by recent decisions, their great engine in the conduct of a strike is gone and that strikes under present conditions are therefore generally useless.

Witness holds that while certain funds of trade unions should be liable for damages in such cases as the Taff Vale and others, the subscriptions of the members for sick and superannuation purposes ought to be protected. A member after subscribing for many years, say to the Superannuation Fund, may at any time be turned out of the Society by the Executive Committee and lose all benefits. The superannuation is generally paid out of current income and not from any accumulated fund. Many Societies are hopelessly insolvent.

Witness, if the Commissioners consent, would like to conclude with a quotation from Mazzini, who said some seventy years ago the position of the labourer had advanced from slave to serf, from serf to wage-hireling, and he must ultimately become the partner.

The wage hire system has, under modern conditions, broken down. Its failure is at the bottom of nearly all present-day labour troubles. To work up to partnership is extremely difficult. In many businesses the difficulties appear at present insuperable, but in others, such as many

joint stock companies, the thing is practicable. Even the gas companies, who have been shown the way, have not adopted it, except in two or three cases in this country and a few in the United States.

Gas companies and some other important joint stock companies—railways, for instance—seem made for the successful adoption of the principle of partnership or co-partnership as it has been called. All that is wanted is to include the employees of all ranks, and here some system of profit-sharing is useful. The great difficulty is in the constitution of the ordinary board of directors. Almost invariably there are some members opposed to all such innovations, and they are a dead weight not easily moved. Others who are favourably disposed to the principle look narrowly at the immediate cost and cannot see the ultimate advantage; these are almost as hard to move as the real opponents. Thus there may be left upon the board one or two men, who, being convinced that peace can never be had on the present system, are ready and willing to make the forward move, but they are a minority and powerless.

Almost the only thing that can move an ordinary board is the pressure of a great necessity.

The only true and lasting trade union is one in which the interests of employers and employed are identical, and of such a union partnership is the essence. This would prevent disputes, which is much better than settling them.

Witness has very closely studied and watched the working of what is known as profit-sharing. The profit-sharing that consists in an annual distribution of the bonus in cash does more harm than good; it does not encourage thrift and very soon loses its effect, and must then, sooner or later, die a natural death. Profit-sharing is only useful when it is made the stepping-stone to partnership by investing or paying the annual bonus in stock or shares of the undertaking.

Witness hopes and believes that ultimately the workmen will have their share in the joint stock limited liability system that has so enormously increased the wealth of the business or middle classes. Then Mazzini's prophecy will be fulfilled, and capital and labour, masters and men, employers and employed, will be really united for the common good.

COPY OF THE GENERAL AGREEMENT OF THE SOUTH METROPOLITAN GAS COMPANY WITH THEIR EMPLOYEES.

Wages No.	Profit Sharing No.

MEMORANDUM OF AN AGREEMENT made the

day of 190 between

for and on behalf of the SOUTH METROPOLITAN GAS COMPANY, of No. 709, Old Kent Road, in the County of Surrey, of the one part, and of the other part,

(1.) The said for South Metropolitan Gas Company agrees to employ the said

for a period of months from the day of the date thereof at one or other of the Stations of the said Company, if he shall remain sober, honest, industrious, and perform the work allotted to him.

(2.) The said agrees to serve the said Company for the said period of months in whatever capacity he may from time to time be employed by the said Company at the current rate of wages applying to such capacity.

(3.) The said agrees to obey the orders of the Foreman in charge.

(4.) The hours of working for yard men to be 54 hours per week.

(5.) The Company undertakes that during the continuance of this Agreement the different rates of wages in force at the date thereof, and which, under Clause 2, may become payable to the said shall not be reduced;

(6.) The said to be entitled to the benefit and be bound by the conditions of the Profit-Sharing Rules so long as he shall continue in the service of the Company under Agreement.

As witness the hands of the parties,

Sir George Liversy, M.I.C.E., M.I.M.E.

15 Dec. 1904.

No obstacle will be thrown in the way of any man engaged under the above Contract who may wish to leave the Company's employment before the expiration of the period of service therein agreed for, provided he shall notify such wish to the Engineer of the Station at which he may for the time being be employed, and on receipt of such notice the Engineer shall, in his discretion, consider whether the services of such man can be dispensed with without detriment to the Company, and, if so, permission will be given at the expiration of the usual week's notice.

4334. You have, I think, strong notions on the subject of picketing?—I have.

4335. Do you think it ought to be tolerated in any shape?—Well, that is rather a large order, but I think it ought not.

4336. To put the question in another way. Do you think that watching and besetting the house, or premises, or place of work, of any man for the purpose of importuning ought to be allowed?—I think not.

4337. Therefore would you be in favour of the abolition of the qualifying clause in the Act of Parliament?—I would. I may say that when I was on the Royal Commission on Labour, I had some talk with one or two of the labour members, and I said, "As to this picketing, you talk about giving and receiving information, but how would it do for the employer to be required to post up a notice outside his gates giving his version of the affair, and the trade union to do the same"? And these gentlemen said, "We should be perfectly satisfied with that."

4338. I must say that it would be rather difficult for me as a lawyer to state the case in such a way?—The other side could put up their version; the trade union could put up a notice.

4339. (Sir William Lewis.) That might lead to the multiplication of notices, the one answering the other?—What it comes to is this, that there is no necessity in these days for anyone to give or receive information; it is perfectly well known.

4340. Common knowledge?—It is common knowledge; everybody knows all about it.

4341. (Chairman.) Of course, there is receiving information as well as communicating information; both are equally recognised by the statute?—Yes.

4342. What do you say as to receiving information?—The object of the pickets in receiving information is to get what information they can as to what is going on inside the works.

4343. Receiving that information is, of course, a matter of interest to the strikers?—Yes it is.

4344. But is it, do you think, a justification to them for watching and besetting the house?—I think it is no business of theirs; in our own case it was no business of the strikers. They chose to leave their work and we put in other men.

4345. (Sir William Lewis.) You had finished with them?—We had finished with them; one lot of men went out and another lot of men came in.

4346. (Chairman.) Your plan of preventing strikes is a very interesting one and must command the sympathies of most people. It consists of two things, I think, one the system of long contracts terminating at different times?—Yes.

4347. And the other is profit sharing?—The other is the co-partnership, as I prefer to call it.

4348. The trade unions object to that system, I understand?—They do. I might give you instances. When we started our agreements they objected, saying that they could not strike under that arrangement and that these arrangements ought to be so drawn that they might all terminate at the same time, and they did make an arrangement of that sort with the Gas Light and Coke Company, the great company supplying the north of London, and under that a month's notice on either side was to be given in the event of a disagreement.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.

15 Dec. 1904.

4349. It is natural for trade unions to object to your arrangement?—Yes, certainly, but ours is a peculiar business, and I have strong views on that point also.

4350. (Sir William Lewis.) You would draw a distinction between it and any ordinary concern?—Yes.

4351. In that you have to supply the public with light?—Yes, in this agreement, copy of which I have handed in, I put in this clause at the bottom: "No obstacle will be thrown in the way of any man engaged under the above contract who may wish to leave the company's employment before the expiration of the period of service therein agreed for, provided he shall notify such wish to the engineer of the station at which he may for the time being be employed, and on receipt of such notice the engineer shall, in his discretion, consider whether the services of such man can be dispensed with without detriment to the company, and, if so, permission will be given at the expiration of the usual week's notice." I thought it would be very hard to bind a man for twelve months if when he had an opportunity of improving his position he was to be told "No, you are fixed here for twelve months and here you must stay." So we put in this proviso which would allow of any man, or any dozen men, or fifty men, say, leaving, but if 500 wanted to leave at the same time, then the engineer would say "No, I cannot allow that; it would be a detriment to the company and I cannot do it." The fact is that the men like these agreements immensely, and there has never been any difficulty.

4352. I do not know whether you are aware that similar arrangements have been made in other trades before now?—I daresay.

4353. As to their not giving notice altogether?—The men come in at all sorts of times; a man comes in to work and we give him an agreement and that is dated, say, in August, and another comes a week later and so on, and they inevitably become scattered over the whole year.

4354. (Chairman.) I think we understand the system. The trade union plan of having short notices or no notices may be very good for their purposes for facilitating strikes, but from a moral and social point of view which do you think is the better—that masters and men may fly asunder at any moment, or that masters and men should be more or less permanently linked together?—I have no hesitation in saying that the latter is far the better, and I may mention here that while on the Royal Commission on Labour the late Mr. Mundella one day said to me, "I like your arrangement with your men, but I do not like your agreements, and I should be very glad if you could see your way to abolish the agreements." We have what we call our profit-sharing committee; there are eighteen workmen on it and eighteen men nominated by the directors; it is a large committee and we make it so in order to get as large a number of men interested as possible. I said to Mr. Mundella, "I will ask the workmen members," and I called them together and the manner in which these men begged me not to interfere with the agreements was really pathetic.

4355. (Mr. Cohen.) Which agreements?—These agreements I have produced.

4356. (Sir William Lewis.) The personal agreement with the men?—Yes. They said: "You will upset the men more than you have any idea of if you abolish the agreements," and they undertook that nothing whatever should be said about it. They said, "We will say nothing about it, and we hope you will not." I went back to Mr. Mundella and told him about it, and, honest man as he was, he said: "I am satisfied." The men, even where there is no bonus attaching to them, value the agreements immensely. The manager of the Norwich Gas Works told me that when the agreement with no bonus expired the men came for a new one, and the wives often came with them, and the wife put the agreement in her pocket as soon as it was signed and went off with it. The fact is that to a poor man to get a guarantee of employment for twelve months is a very great thing.

4357. They regard it as some protection?—It was a protection; it is a protection against the trade union as well as other things.

4358. (Chairman.) As an extreme illustration of the principle, which do you think is preferable—marriage for life or marriage dissoluble at a week's notice?—I think the old plan of marriage for life is the best.

4359. (Mr. Cohen.) Still, no agreement by which a workman bound himself for life to you would be allowed by the law?—No, it is a different thing; it must be for a limited term. I ought to say that this agreement, when it was first started, had a clause prohibiting the employment of the members of the Gas Workers' Union; under Section 1 the man said that he was not a member of the Gas Workers' Union and that during the running of the agreement he promised not to be, but some years ago we expunged that.

4360. (Mr. Sidney Webb.) Was it not perhaps that that Mr. Mundella was expressing his objection to?—It is possible; it was that agreement that I submitted to the men. I could explain why that was put in if the Commission cared about it.

4361. (Sir William Lewis.) But there is nothing in this agreement of that nature?—No; there was a reason for it at the time.

4362. (Chairman.) As to a sympathetic strike, that is to say, one union or one set of men going out on strike in support of other men who are on strike, do you think that is illegal or legal?—I suppose it is legal; we had it. I am not a lawyer, but it was done in our case. The Gas Workers' Union called out their men, and the Coal Porters' Union called out theirs without any notice. The lightermen struck against us, and the seamen and firemen; Havelock Wilson's Union took out their men from the colliers.

4363. I put to you the abstract question: Apart from the merits of the particular strike to which you refer, do you consider that a sympathetic strike ought to be lawful or not?—Speaking of our business no strike ought to be lawful.

4364. (Mr. Cohen.) May I put this question to you? If strikes are lawful do you see any reason why sympathetic strikes should not be lawful?—I do not; if they like to strike they may on giving the legal notice.

4365. (Sir William Lewis.) They are strikes directed against parties that have nothing whatever to do with the trade dispute?—I cannot see why they should not be legal; if a body like to strike they may, if they do not break the law.

4366. (Chairman.) You say that the Bills before Parliament would promote breach of contract: how do you make that out?—Yes, that comes in my statement.

4367. (Mr. Cohen.) I think you explain it on page 6, paragraph 2 (*Vide p. 248, col. 2, ante*): "If such powers were granted the contracts of service made by the South Metropolitan Gas Company would be rendered null and void if the men at the instigation of a trade union were induced to break them and to come out on strike"; if the trade union fund is not liable you mean?—That is under Sir Charles Dilke's Bill, and I say with regard to that, "that trade unions should be authorised and empowered to interfere either with the exercise by another person of his right to carry on his business, or with the establishment or continuance of contractual relations between other persons, is an outrage on justice and common sense." It would come to this, we have made agreements with our men, and if this Act were passed and became law it would be lawful for them to persuade our men to break their contracts, and, according to that, they would not be liable.

4368. Allow me, with deference, to say that I scarcely think that is the right view of the Bill, but substantially this should be the result, that trade unions would not be liable for breaches of contract which they had encouraged and that you say is pernicious?—Yes.

4369. (Chairman.) When a breach of contract takes place the particular men who break the contract are still liable, are they not, under Sir Charles Dilke's Bill?—Are they? I do not quite understand the clause.

4370. Yes, but the difference is, and a very fundamental difference it is, that the funds of the union are not liable?—Then what is the meaning of this, "or with the establishment or continuance of contractual relations between other persons"?

4371. (*Mr. Cohen.*) Your great point is this, is it not, that if a trade union cannot be sued because it orders or occasions or encourages breaches of contract, then, in effect, breaches of contract would be greatly encouraged generally?—Yes, only then I suppose our remedy would be against our own men who had broken the contract.

4372. Yes, but that remedy would be a very imperfect remedy?—Yes. The Conspiracy and Protection of Property Act gives three months' imprisonment for it as a penalty.

4373. (*Chairman.*) On that point of breach of contract I wish to ask you—do you think that the Penal Clause in the Conspiracy Act making breach of contract in certain cases penal is of value?—Yes, I think it is of value. My experience shows me that the men are very much more deterred by that than by the ordinary law.

4374. Do you think that that deters them most or the power to attach the union funds if the breach of contract has been either authorised or instigated by them?—I think the risk of three months' imprisonment deters them most, that is the individual men.

4375. (*Mr. Cohen.*) Do you think that that ought to be extended to railway companies, as has been suggested?—I do most certainly.

4376. I want to ask you another question which has occurred to me. Do you think it would be advisable to enable, say, the President of the Board of Trade, to make an order extending those provisions to any other businesses, of course the order to be laid on the Table of the House of Commons?—I think it wants the authority of Parliament rather than of a department; I think it would be too much to give that power to a department.

4377. But you think it ought to be extended to railway companies?—I think it ought to be extended to all undertakings that are engaged in supplying the public necessity.

4378. (*Chairman.*) That is every trade in the world?—No; I meant to finish in this way: "Of which the cessation would cause danger to the public." Now, as Mr. Munro, the Chief Commissioner of Police at that date, told me, "Yours is a totally different case to that of the London Docks Strike, for the stoppage of work at the docks for a month was not a danger to the public, but a stoppage of the gas supply of South London for only a few days would be disastrous."

4379. Do you consider that observation of the Chief Commissioner of Police was a justifiable observation?—I do.

4380. Do you think it is the function of the Chief Commissioner of Police to decide on the merits of a strike and to say, "This strike is dangerous, and that other strike is not dangerous; in this strike, therefore, I shall give the employers every possible protection, and the other strike I shall let drift and go on as it may." Do you think that a right position?—He was a very careful Scotchman and he particularly emphasised the point that he would give us all the assistance he could within the law.

4381. Does not that apply to every strike which exists equally, and is it a justifiable thing for the Commissioner of Police to make a distinction between the object or merits of different strikes?—Well, I can only deal with this case and I must say that I think it was justifiable in that case. He said: "I am responsible for the safety of London and to stop the gas supply in all South London would be a risk I will not run."

4382. Do not misunderstand me and imagine that I suggest that he should not have given you full assistance; I am asking you whether he should not give precisely the same assistance in the case of every strike?—Well, perhaps he should.

4383. (*Sir William Lewis.*) Some people might suggest that the closing of the docks might prevent food coming into London?—Yes.

4384. (*Mr. Cohen.*) May I just read you the section (No. 5 of the Conspiracy and Protection of Property Act, 1875): "Where any person wilfully and maliciously breaks a contract of service or of hiring, knowing or having reasonable cause to believe that the probable consequences of his so doing either alone or in combination with others will be to endanger human life, or to cause serious bodily injury, or to expose valuable property whether real or personal to destruction or serious injury," he shall be guilty of an offence?—Yes.

4385. Would not that cover nearly almost all the cases you are thinking of?—It would nearly; the only difference in the gas and water companies is that the penalty is not exceeding three months' imprisonment.

4386. So is this not exceeding three months' imprisonment?—I was not aware of that.

4387. (*Chairman.*) How would that cover the case of a railway?—On the question of a railway I read Sir Benjamin Browne's evidence, and as reported in *The Times* he spoke about a railway or a gas company locking out their men for their own selfish interests. Now I say a lock-out by a railway company or a gas company never has taken place and never will.

4388. I wish to know on what principle you ground your proposal to extend the provisions of the statute to railways. Do you think the extension ought to be made because a lock-out is not possible or because a great danger arises if the service to the public is not maintained?—That is my point.

4389. The second point?—The second point.

4390. Therefore we may dismiss the first point?—Well I say, on the other hand, if a lock-out is impossible a strike ought to be impossible, and people who enter into the service of these companies ought to do it with a full understanding of the necessity that the business shall not be interrupted.

4391. Are you supposing the condition is that there is a breach of contract of service?—Yes.

4392. But we are supposing that there is no breach of contract?—Unfortunately, as I say, the gas companies had this power given to them by the Conspiracy and Protection of Property Act, and I do not think one of them adopted contracts. They have put up the notice in their yards, but as to entering into any contract with their men they never did it before 1889. A few do it now.

4393. That is a special case, but now looking forward to the future, how are you going to prevent a strike which is not a breach of contract?

4394. (*Sir William Lewis.*) Supposing a set of men terminate their contracts by giving proper notice, and they come to an end, what have you to suggest with respect to railways in particular?—Such strikes ought not to be permitted.

4395. (*Chairman.*) That is a pious opinion, is it not. How could you prevent or prohibit strikes?—I would make it a penal offence to strike if the public safety was endangered. This could be done by making contracts of service and extending the provision in the Conspiracy and Protection of Property Act to railways.

4396. (*Sir William Lewis.*) You would suggest that the men as a body should not be allowed to give notice all together, but I assume you would not prevent a single individual from terminating his contract?—Certainly not; gas stokers or railway engine-drivers should not be allowed to leave in a body.

4397. (*Chairman.*) Might I suggest that you should leave it to the lawyers to see if they can construct a clause for the purpose?—Yes. The law is sufficient at present but for the supineness of the employers, and at this present time very few gas companies have adopted a system of agreements or contracts.

4398. (*Mr. Cohen.*) Your agreement is so wisely framed, you know, that in your case no such difficulty could arise?—No.

4399. (*Sir William Lewis.*) I take it you have no difficulty as between unionists and non-unionists?—No, and another thing I may say, that taking a case where there are unionists, for instance, the same system was adopted three or four years ago by the Commercial Gas Company, and the Gas Workers' Union protested against it, and had mass meetings on two or three Sundays in succession, and advised their members not to sign the agreements, but the very officials of the union in the employ of the company were among the first to sign the agreements. The men like the agreements.

Sir George
Livesey,
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15 Dec. 1904

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15 Dec. 1904.

4400. (*Mr. Cohen.*) Since that agreement has been generally signed do you know whether trade unions have interfered with those members who have signed the agreement?—No, not since it was generally signed. It was the signing of the agreement by three stokers that brought on our strike, but since the agreement has been signed they do not interfere.

4401. So that you have no trouble with trade unions?—None whatever; the trade unions have accepted the position, and there is an end of it.

4402. Why cannot railway companies enter into similar agreements with their more skilled employees?—There is no reason whatever, and that would be a far better solution of it than an Act of Parliament prohibiting strikes.

4403. (*Sir William Lewis.*) What proportion do you think you have of non-unionists in your employ?—There is no advantage for any man to belong to the union now.

4404. What is the proportion?—I do not know. It is a very small proportion. We never ask a question and never hear a word on the subject of the union.

4405. And you have no trouble arising from their refusing to work with each other, or anything of that kind?—None whatever, nor have the Commercial Gas Company now; at their works in North London they used to be a good deal in the power of the union, but they have no trouble now, in fact the Gas Workers' Union has lost its power.

4406. (*Mr. Cohen.*) So that you think if the railway companies were to enter into agreements similar to the agreement you have so wisely framed most of the difficulties would vanish?—I think so—they would vanish if the Companies did it. The men will not break a contract of this sort.

4407. (*Sir William Lewis.*) That agreement forms no part of your profit-sharing business?—No, only men who are not under agreement do not participate, that is all.

4408. There might be a difficulty about the profit-sharing when you came to deal with railway companies?—Yes, a profit-sharing bonus of only 3 per cent. on salaries and wages is an amount railway directors do not like to face. Glasgow adopted our form of agreement and Coventry adopted it also. Glasgow gave the men a shilling a week extra during the running of the agreement to be paid at its termination.

4409. (*Mr. Cohen.*) What company are you referring to?—The Glasgow Corporation Gas Company; but the Norwich Gas Company adopted the agreement with no bonus whatever.

4410. (*Chairman.*) We quite understand that the two main provisions of your arrangement, the one that there shall be long contracts terminating at different periods, and the other that there shall be profit-sharing, are quite independent of each other?—Yes, you may have the agreement without the profit-sharing.

4411. I think you express yourself strongly about the Taff Vale case?—Yes.

4412. You are in favour of that principle being maintained?—Nothing could be more forcible or more just than the Lord Chancellor's remarks on that case—that a thing that can do all that a trade union can do should be freed from responsibility for its actions is absurd.

4413. You mention, I think, in your paper that in cases of strike the strikers sometimes try to prevent the blacklegs from getting lodgings?—They do generally.

4414. Do you think that is lawful or not at the present time?—That is a legal question. They do it by giving or receiving information—and what they did in our case, certainly when the blacklegs, as they call them, were settling down, was that they went to the people of the neighbourhood, the owners and tenants of the houses, and said, "Do not take these men in; they are full of vermin."

4415. Do you consider that ought to be unlawful?—I think so; certainly; it is a case of besetting the place where a man lives.

4416. Unlawful—not that you think that it is unreasonable, but you think it ought to be unlawful?—I do not like the interference of the law at all where people can do without it.

4417. That is rather a hesitating answer, is it not?—Perhaps it is. It was an abominable thing, because it was false, and a great deal of the information that the pickets give is false.

4418. But supposing that the strikers went to the owners of the lodgings and said, "The non-unionists are coming; they are fine, clean men, but they are blacklegs, and I hope you will not take them in;" in that there would be no misrepresentation?—No.

4419. But, nevertheless, would you think that that ought to be actionable or not?—It is not right and it ought not to be allowed, because it is an unjustifiable interference one body of men with another.

4420. (*Sir William Lewis.*) For the purpose of striking the employer?—Yes.

4421. You would not like a law which says that if at any time you or I do something which is not right we shall therefore be subject to an action in the Courts, would you?—No, I do not like any more law than you can help.

4422. I think you represent an Association, do you not?—No, we have no Association except what is called the Gas Companies' Protection Association, and I am Vice-President of that.

4423. Have you any rules about assisting each other?—Yes; I have sent them in.

4424. In those rules you do not make any special provision for mutual assistance, but I notice that No. 13 is a very sweeping, pregnant clause, in these terms: "The Committee shall have absolute control over all the funds standing to the credit of the Association, and may deal with the same as they think desirable in the general interests of the Association": that, I suppose, would include your making advances from the common fund to any employer whose men were on strike if you thought fit?—No, I do not think it would include that—in fact, there is one very great obstacle—the funds are not, and are never likely to be, sufficient for that purpose, but the object is to enable the Committee to support an action at law, or opposition to a Bill in Parliament; they can use the funds for that purpose, and I think they might use their funds in opposing these trade union Bills, but not in supporting employers. That was never contemplated; whether it gives them the power or not is another matter, and the funds are not sufficient.

4425. (*Mr. Cohen.*) I believe you signed the Report of the Royal Commission on Labour, 1894?—The Majority Report; nineteen of us signed it.

4426. You signed both what I may call the Report and the Majority Report?—I signed the Majority Report, and I signed another Report recommending that trade unions should be brought within the law. There were eight who signed that, the Duke of Devonshire, Mr. Courtenay and several others.

4427. So I may take it that you are in favour of the recommendations contained in those two Reports?—Yes, I do; as to the Majority Report I might not agree with every word, but the other I did agree with absolutely.

4428. As regards the other, which was signed by eight members, I just want to ask you one or two questions: You remember the general drift of that Report?—Yes.

4429. And in that Report it was stated that there was considerable difficulty in the way of binding contracts being made between trade unions consisting of workmen and trade unions consisting of employers?—Yes.

4430. At that time you were advised and you believed that no action could be brought against trade unions?—Yes, and it was the common belief.

4431. Now that it has been decided that an action does lie against trade unions, a great many of those difficulties which are pointed out in that Report have disappeared?—Yes.

4432. And if you had then known what the law was you would probably have made stronger recommendations?—Very likely; I did not draw up the Report, but I signed it.

4433. But that was one of the great difficulties, you remember?—It was.

4434. In the way of arbitration and in the way of binding agreements?—All the trade unionists on the Commission were dead against the recommendations of that Report, that is against the trade unions being brought within the law.

4435. Yes, because then they thought the trade unions were not liable?—They did.

4436. If the law is that trade unions are liable a great many of the difficulties pointed out in this Report could disappear?—Yes, there is one difficulty that seems to me a very great hardship on the members of trade unions, and that is that an individual member pays his money for certain definite purposes, and he has no remedy against the union. I do not know that it has been settled by law that he has a remedy, I fancy not.

4437. The Statute prevents it; the Trade Union Act of 1871 prevents it?—They can turn him out if they like arbitrarily, and he may have paid for years, and I have often had this said to me by men in the Amalgamated Society of Engineers, for instance: "We are obliged to pay this 1s. 6d. a week subscription, because we have paid it so many years and we are looking forward to our pension—our superannuation," and those pensions are paid out of current income. At the time of the engineers' strike I saw that it had been calculated by some Actuary that they were about £1,800,000 insolvent, and therefore from the individual man's point of view he ought to have a remedy.

4438. (Chairman.) You say he ought to have a remedy: do you not think before you made that answer it was necessary to consider the thing as a whole and to see the consequences? For instance, if the workman has a remedy against the union for not fulfilling their contract to him, the union should have a remedy against the workman for not fulfilling his contract to them, and would that not imply that a trade union could apply for an injunction to prevent a man going to work who wished to work?—I do not know; he could leave the trade union if he liked—sacrifice his interest in it and leave it, surely.

4439. I will put it in this way: could not the trade union have an action against a man for having refused to continue the strike levy which he promised to pay so long as the strike continued?—Yes, probably, but apart from that I should imagine that when a man is a member of a society and pays certain subscriptions he can withdraw from it whenever he likes by sacrificing his interest in the matter. A man can withdraw from a friendly society, and he need not go on paying to it.

4440. That may be so, but supposing the contract was so drawn as I have mentioned, would you have it enforced at law?—No, I do not know that I would.

4441. Therefore that operates as a qualification generally upon what you have said?—Yes, I have here some of the monthly reports of the Amalgamated Society of Engineers, and I see that a full member's contribution is 1s. 6d. a week, and 2½d. of that goes towards paying donation benefit, another 2½d. goes towards paying sick benefit, and 5½d goes towards paying superannuation benefit.

4442. You understand I am not at all disputing the justice of your contention that if a man has paid in his money for years that should not be arbitrarily confiscated?—It comes to this, that the separate funds ought to be ear-marked and allocated for their definite purposes.

4443. Do you think the law could undertake to say that workmen shall not be judges of their own interests, but that they shall pursue their interests in a particular way prescribed by Parliament?—What have they done with regard to Friendly Societies? They have to be registered; they were found to be insolvent in many cases and Parliament interfered.

4444. (Mr. Sidney Webb.) But not to prohibit any Friendly Societies?—No, but to do what Parliament could to make them solvent.

4445. (Chairman.) Because the State conferred certain advantages upon them, and in consideration of those advantages imposed certain restrictions?—Yes.

4446. That would not apply to a trade union?—Perhaps not. I am not an advocate for interfering by means of the law in connection with the liberties of men, any more than is absolutely necessary.

4447. (Mr. Cohen.) I want to draw your attention now to a paragraph which seems to me to express what you indicated a few minutes ago; "In any case there must remain" (I am speaking now of the general question how far courts or legislation can properly interfere) "a great deal of moral compulsion or pressure, which may in some cases be justifiable and in others not, but which positive law cannot usefully attempt to control. The law can and should protect the persons and property of those who dissent from the majority of their neighbours or fellow-workers; it cannot compel the majority to have a good opinion of them"?—No.

4448. That expresses tolerably, I think, your opinion?—Yes.

4449. You know the ordinary phrase "boycotting"?—Yes.

4450. There would always exist a good deal of social boycotting?—I do not see how the law could stop it.

4451. Which may be extremely cruel, but which the law cannot stop?—No.

4452. Which it would not be wise for the law to stop?—That is so.

4453. If injury to property or persons is threatened then you think the law should interfere and interfere firmly and promptly?—Yes, where they are absolutely threatened.

4454. Now I want to ask you one general question: supposing the law to remain settled as it is that a trade union shall be liable in respect of torts directed by the trade union—ordered, authorised, or sanctioned by the trade union—and supposing that intimidation, that is to say such acts as threats of injuring persons or property, is prohibited and prevented, do you not think that would satisfy all that reasonable men could require?—Yes, I do, if you prevent intimidation.

4455. If you prevent intimidation and make trade unions liable for any torts committed by their officers or sanctioned by the trade union, then you think all that can be effected by legislation would really be effected?—I think so, but intimidation consists, you know, in a large number of men meeting; even if they do not say a word, that is intimidation to the men at work or who wish to work.

4456. (Chairman.) If a thousand men go to a master and say, "Unless you increase our wages, or do something for us, we shall all strike to-morrow," and the employer knows that his business may perhaps be driven into bankruptcy if that takes place, would you say that the master was intimidated or not?—I should say that supposing they give their legal or proper notice the thousand men can all leave. Usually when they are paid weekly wages the understanding is that it is a week's notice, and if they all went to him and said, "Unless you pay us such and such wages we shall leave you this day week," I think they would be within their rights.

4457. (Mr. Cohen.) Have you known any case of picketing in which there has not been that kind of intimidation which I have described, that is to say in which persons did not reasonably believe that their persons or property would be injured?—Wherever there is a large number of pickets about, wherever they assemble, the men against whom they are directed are intimidated.

4458. That is to say, they have reason to fear injury to person or property?—There is no doubt of that.

4459. I may say it is very different from what is called social boycotting?—Totally different.

4460. Generally you would not interfere in cases in which there was no reason to fear injury to person or property?—No, and I would therefore limit the number of pickets; the unlimited number is the mischief. If they were limited to say two at the gate of the works to give or receive information there might be no harm.

4461. (Chairman.) Supposing there were only two persons placed at the door of the shop, and only two persons placed at the house where the man resided, what would you say?—I would not allow them at the house at all; they have no business there.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.
15 Dec. 1904.

Sir George
Livery,
M.I.C.E.,
M.I.M.E.
15 Dec. 1904.

4462. Supposing they had two at the premises and they saw each workman as he went in in the morning, as he came out for breakfast, as he went in again to work, as he came out for dinner, as he went back after dinner, and as he left in the evening and did no more than obtain or communicate information, do you think that that would be intimidation or molestation or not?—They might take the names of the men and use them to the men's disadvantage, but I consider that if not more than two men are allowed outside the gate the men themselves employed at the works would have no fear of them, that is, where a large number of men are employed, but with small businesses it would almost certainly amount to intimidation. I heard recently of such a case in the Borough where only five men are employed.

4463. Why do you make the difference between the house and the works?—I think it is an outrageous interference with a man's private life to attend outside his house. It is quite sufficient to give and receive information at the gate of the works where the man works.

4464. If it is a nuisance outside a man's house, I suppose it would be a nuisance outside the works?—I daresay it is, but I would make that concession to them because I think the intimidation consists in the unlimited number. I said two because I thought it would be very lonely for one.

4465. (Mr. Cohen.) Might I put it in this way: Supposing there was an enactment of this kind that besetting premises, if it constitutes a public nuisance or if it is intended or calculated to intimidate, should be a criminal offence, would that satisfy you?—Yes, I daresay it would, but I do not know whether I should not be content with leaving it to the limitation of numbers.

4466. You would allow two?—I said two for the sake of company; one would do, but if you only allowed one it would be rather lonely, but no harm would come to him.

4467. Would you allow picketing by one only?—I think so for simply giving and receiving information. If the men inside the yard could not hold their own against two they are not good for much, but when they have to run the gauntlet of an unlimited number it is a very serious thing, especially following them through the streets.

4468. You think it might be proper to say that picketing by two or more persons should be a criminal offence?—I would say picketing by more than two persons. I make this concession to the trade unions and to the general public. They say: "These people have the right surely to give or receive information and there is no harm in that," and I say: "If you want to give or receive information one or two men are sufficient for it."

4469. (Chairman.) Have they not a right also to persuade?—If they like; I am not afraid of that. If you have twenty or thirty men outside the gate trying to persuade, it is intimidation, but if there are one or two with simple argument I have no objection. They might say to a man, "Why are you taking the bread out of our mouths?" and if he has not an answer for them and thinks there is something to be said for their argument and he leaves the works, he may.

4470. (Mr. Cohen.) Your view seems to me extremely consistent and logical; you say the real evil of picketing is intimidation?—And it is carried on for that purpose and no other.

4471. And you do not believe that there could generally be intimidation if only two persons picketed?—That is my view.

4472. (Mr. Sidney Webb.) I do not want to go over the ground that has been gone over already. You have pointed out very clearly that the gas companies and some other occupations are in a very different position from the ordinary trades of the country in respect of the practical impossibility of their suspending their work?—Yes, gas companies and railway companies may be taken as typical.

4473. And you suggest that in the public interest in those cases no strike ought to be lawful?—Well, I would be content with a similar application to railways as to gas and water companies. I am very doubtful about Parliament prohibiting strikes, you know.

4474. I quite understand and largely sympathise with both views. My difficulty is that if the workmen in any occupation think rightly or wrongly that the power to strike is a protection of their interests, I do not see what equivalent Parliament could offer to those workmen whom they prohibited from striking?—I should say to them: "When you undertake to work for a gas company or a railway company you must understand that one of the conditions of the business of a railway or of a gas company is that the work must be continuous in the public interest, and therefore if you choose to come and work for us you must not think of striking."

4475. You suggest, in fact, that the offer of continuous employment is, to some extent, an equivalent for the power of striking?—I would adopt this form of agreement of ours or something like it.

4476. But that form of agreement, which, if I may say so, seems to me a very admirably drawn up one, binds, on the one hand, the man to continue in your employment as specified, and, on the other hand, you undertake to give him continuous employment day by day as specified?—Exactly.

4477. And you have suggested that the trade unions have had a great objection to even that agreement, in the past at any rate?—They say: "We should not mind if there were a clause in it providing that we might all go out on giving a certain notice."

4478. I think you told us also that the employers in a great many trades have manifested considerable objection to entering into such an agreement; they have not done so at any rate?—I am only speaking of the gas companies of which I know most, and they have been supine and indifferent.

4479. Although they could quite easily undertake to give continuous employment, I assume?—We can do this; for our winter men, if they come on early in the winter, we let them sign an agreement for six months, and if a man comes on in November he signs for three months; but to our regular men, the men in constant employ throughout the year, we give a twelve months' agreement.

4480. (Chairman.) Do I understand from you that the employers have felt shy of an agreement of this kind because it binds them to find continuous employment for a length of time, or is it that they are afraid that if they made any such proposal they would be met with a strike?—I think it is simply supineness and indifference; the indifference of employers is the cause of nearly all the trouble.

4481. (Mr. Sidney Webb.) Pursuing that point which I have in view, is not the position rather different in the case of employers who do not feel inclined to guarantee continuous employment even for a term?—Companies like railway companies and gas companies can do it. I have heard that objection raised. They say: "If you give an agreement to a man he becomes independent and says: I am safe for twelve months and I can do pretty much as I like."

4482. Is there not also a further thing to be said on behalf of those employers, that, as their business is now organised they do, in many cases, make a practice of taking on men for a short time when they have a pressure of work, and discharging those men after very short service?—These agreements apply to such companies as gas and water companies typify; they would not apply, I dare say, to all ordinary businesses.

4483. That is to say, you have pointed out, as I may say, very rightly the great moral and social advantage of that continuous employment, but you do not suggest that that continuous employment would be given as a rule by employers in the majority of trades?—Well, if I were an employer in any business whatever, I would introduce the system of agreements, if possible. I do not say I should do it to every man in my employ, but if I were the head of an engineering or other establishment I have found so great an advantage from this system of agreements that I would adopt it in all businesses as far as possible.

4484. Do you think it would be an equitable form of agreement for an employer to suggest that the workman should be bound to serve for six months if required, but that the employer should not be bound to employ him every

day during that time?—I think the employer must give him work during the term; I should not like to put the man off for a day in such a business as ours.

4485. You do know that there have been in the past, let us say, such agreements; for instance, in some sections of the coal mining trade the men have been bound to serve such and such a colliery for a year, but the colliery has been under no obligation to find them employment for any number of days in the year?—I do not agree with that if there was work to do. I think any agreement between master and men should be perfectly mutual and fair.

4486. And should include therefore continuous service and continuous employment for the term specified?—Taking coal mining, I think you must put it this way, that it is dependent to a considerable extent on the demand for coal. I read the weekly reports, and I see, take Barnsley for instance, that the demand is slack and the employment is only four days a week. Well, I do not think it would be fair to insist on an employer giving an undertaking to employ the men six days a week whether he could do it or not.

4487. May I ask in the case of such a colliery as that with such a fluctuating trade, what does the employer do with regard to his horses? Does he not employ them continuously?—No, he is obliged to feed them, but he does not employ them.

4488. Is not that rather the point, that if a man is under obligation to serve an employer for a period, does it not almost necessarily follow that in equity the employer must be under the obligation to furnish him with some sort of wage during that period whether he employs him or not?—We have a somewhat similar case, I must admit, in our coal men, who unload the coal ships and who are under agreement too. We found it much better to have our own men rather than to be dependent on the Coal Porters' Union. They earn very large money when they are unloading a ship—15s., or more than that in a day; but ships are not there every day, and we say, "When you are not engaged on a ship you may come into the yard at a labourer's pay," and some come in and some do not, but with coal mining I do not quite see how it could be done.

4489. Surely it would be quite possible for the owner to do for the men—it would be quite economically possible—what he does for the horses. He employs so many horses in his business and he enters the cost of feeding those horses continuously as a charge upon his undertaking, and surely it would be possible, if he chose, to do that with regard to the minimum number of men?—I do not think it would be reasonable, because, remember, if it is a loss to the men to work only four days a week, it is also a great loss to the employer to keep all his establishment charges going—the pumping, the feeding of the horses and all that, and no income derived from them.

4490. You suggest, therefore, that although the horses must be fed every day the employer need not undertake to feed the men every day?—Put it the other way: then the men ought to be bound to work every day in the week.

4491. During the period for which they have specified; that is implied in your company's contract?—I suppose it is; they ought to work every day when there is work for them.

4492. That is what you require of your men under the contract?—And we give them work always. But take a large builder's business; the bricklayers cannot work when it is raining.

4493. What does the builder do with his horses in that case?—That is one of his establishment charges which is a loss to him when work is not going on.

4494. Do you see any economic difficulty in the establishment charges, including the maintenance of the men during the dull season?—He cannot get what price for coal he likes, and the establishment charges may be such—

4495. From the economic point of view you do not see any difficulty, do you?—Only that it may result in his not being able to carry on the business at all.

4496. And therefore it might result in the business drifting into the hands of more capable people?—It does not depend on the capability of the people; it depends on the demand largely.

4497. Surely the management of a gas company, I think I have heard you say, even in London does depend very largely on the relative capacity of the different managers?—Yes, but I am speaking of a fluctuating trade, such as the demand for coal.

4498. At any rate, in a fluctuating trade you do not suggest that there could equitably be continuous agreement; that is what I am rather pointing at?—I do not think it is beyond the possibility of arrangement, and the agreement could be so worded that the employer undertakes to give constant employment for twelve months to so-and-so during all the days that the pit can be worked profitably.

4499. And on the other side that the man undertakes?—I am afraid you would not get colliers to undertake to work six days a week.

4500. Pardon me, the point is whether the man is to undertake to be at the employer's beck and call for any day during the year, if that be the term that the employer requires him for without the employer being under any sort of obligation to employ that man for any particular number of days: do you think that would be an equitable contract?—I think that in all these matters where you can get the right spirit on the part of employer and employed there would be no difficulty. If you cannot get the right spirit you cannot work anything—the employer to give work whenever he has it, and the workman to work whenever there is work to do.

4501. Do you think that would be the sort of contract which Parliament could be recommended to approve?—Yes; but I think you might do it independently of Parliament.

4502. You do not think it is the sort of contract that Parliament could be recommended to approve?—I should not let Parliament interfere with these matters.

4503. Take the case of a dock company, for instance: do you suggest that a dock company might organise its labour so as to work under continuous agreements?—I have heard about the London Docks—one of the Directors told me and I have read it—that since the Dock Strike they have adopted a different system. Prior to the Dock Strike it was all casual labour, and after the Dock Strike they took on a certain number of permanent men whom they felt they could employ permanently.

4504. Do you know in the case of those so-called permanent men whether the dock companies have entered into any continuous agreement with them?—I do not know that they have.

4505. They call them permanent men but they are really engaged are they not, from day to day, or week to week without any long contract?—But they are permanent men employed all through the week, surely.

4506. Yes, but we are talking about continuous contracts over a long term, say six months, and my point is: do you suppose that a dock company could, or might, be induced or persuaded to work under such continuous contracts?—I think a dock company could very well undertake to make such contracts with a certain large proportion of their men.

4507. And you think it would be an advantage if they did—a social and economic advantage?—Yes.

4508. But in that case of course the employers would undertake to employ the men continuously and the men would undertake to work continuously for the term?—Exactly. I may mention that the coal mining is a business which depends on the demand for coal, and they cannot dig coal if they have nowhere to dispose of it.

4509. It does not depend any more on the demand for coal than a dock company does on the incoming of ships?—But a dock company can depend more on their work; it is more regular and constant, for a certain proportion of their men.

4510. You have suggested that you do not think it would be wise for Parliament to make the mere threat to strike without any breach of contract unlawful in any way?—No, I think men have the right to strike provided they give the legal notice.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.

15 Dec. 1904.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.

15 Dec. 1904.

4511. And I understand that you would suggest that, even if the motive of the men for striking were unreasonable, as it often is ?—I do not think Parliament can interfere, and I should like to withdraw what I say here in my proof, that Parliament, because of the supineness of the companies, should make strikes illegal in the case of railway or gas companies. It can be done if the railway or gas companies will adopt proper measures.

4512. (*Mr. Cohen.*) You have pointed out that there are companies that carry on businesses of great magnitude and great importance, the sudden disturbance of which might cause disaster to the public ?—Yes.

4513. Now in those cases do you not think that the difficulty could be met by those large companies entering into agreements similar to the one which has been framed by your company ?—That is what I mean.

4514. And you think that the proper solution of the difficulty.—I do.

4515. And you think that a better solution than could be found in any Act of Parliament ?—Undoubtedly. Perhaps I might say that we have two safeguards ; the agreement is one and I think that is sufficient, but there is also our profit-sharing arrangement. I do not like the term profit-sharing, it is a discredited term, and it fails as often as it succeeds ; we call it now co-partnership ; and instead of paying the bonus in cash, which in place of promoting thrift tends rather the other way (men depend upon it and spend their wages saying, "We shall get our bonus at such a time and we can then fit out the children with clothes and go for our holidays," etc.) half the bonus is now invested in the stock of the company by agreement with the men (it was all payable in cash at first) and the other half is withdrawable on giving a week's notice. We have done what we could to persuade the men to save this other half, and I am very pleased to say that over 95 per cent. of that is saved too, thus practically the whole now gets invested in the company. Our employees have now £230,000 in the company and a good many of these working men have now got a good deal more than £100, the thriftless are being made thrifty, and men being shareholders cannot strike against themselves ; that is an additional safeguard. I cannot persuade other gas companies to do it ; they are afraid to face it, and they think there will be considerable loss to them in paying this bonus. Ours last year was £34,000, and it will be £40,000 at the next distribution to about 5,000 recipients, but that is no loss to the company at all. The better work we get and the more interest the men show in their work I am quite certain it is all earned.

4516. (*Mr. Sidney Webb.*) To resume, you suggest any number of men have a right to threaten to strike without breach of contract, even if the particular motive they may have is quite unreasonable ?—We have nothing to do with their motive.

4517. And similarly if their motive may be that they refuse to work in conjunction with non-unionists ?—Well if a man has a right to leave his work, supposing he does it legally and properly, we have no right to inquire why. What I should say at once is, "Go, if you refuse to work with non-unionists you may all go, and the sooner the better."

4518. Of course I am now trying to get at what you think might reasonably and properly be the law. And similarly if a body of men threaten to strike for some really malicious motive against the employer or against some individual workman, if they do it without breach of contract, and without committing any breach of the law otherwise you would not suggest that even that threat of a strike should be unlawful ?—No, but if I was their employer I should feel I was glad to get rid of them.

4519. But you would not suggest that that action should be made unlawful ?—I have nothing to do with motives ; it may be a very wrong motive, but I do not think we can expect Parliament to interfere with motives.

4520. Of course the employer claims and rightly exercises the power of dispensing with the services of any man for any motive, or no motive, or a bad motive even ; the employer necessarily has that power, has he not ?—Well, the trade unions object very much to anything like combination amongst employers not to employ certain men.

4521. But nevertheless the employer has under the law, would you not say, the right to dispense with the services of any man at his own option or will ?—You cannot interfere with that right of the employer.

4522. And you suggest therefore that a man or a group of men ought to have the same right to leave the services of the employer for any motive or no motive ; provided there is no breach of contract ?—Yes.

4523. You see that it has been suggested by some learned authorities that if the men do that—threaten to strike without breach of contract for a malicious motive—they are liable to an action for conspiracy or intimidation ?—That is intimidating the employer.

4524. Yes, but you do not suggest that that should be unlawful ?—I do not see how it can be carried out ; that is the difficulty.

4525. At any rate you do not wish to see a group of workmen put under any different law in that respect from an individual employer ?—No ; what I wish to see is the employer gaining the confidence of his workmen and working with them.

4526. But so far as the law is concerned, you do not suggest that a group of workmen should be put under any different law with regard to threatening to withdraw their services without breach of contract ?—There must be equality of the law for both parties.

4527. Similarly, you were one of the eight Royal Commissioners who suggested that the Trade Union funds should be liable for any breach of agreement which the Trade Union made ?—Yes.

4528. And you suggested that that would be an advantage on the whole ?—I think so.

4529. And the law practically has now taken a similar view in the Taff Vale dispute ?—I think the Trade Unions ought to keep their funds separate.

4530. We will come to that in a moment, but I gather that you think that an association, which is in fact a powerful body able to take such action, ought to be under the same liability for its action as any other corporate body ?—Yes.

4531. I gather you also thought that it would only be reasonable if that were done that the Trade Unions should be freed from disabilities in entering into contracts ; for instance, at the present time a Trade Union cannot enter into a contract either with an employer or its own members. You suggested in 1894 that a Trade Union should be able to enter into contracts ?—Yes, you see they cannot compel their members.

4532. At any rate you would not object to their entering into contracts with their members in order that they might be able to sue their members ?—Take the case of the Nottingham lace-makers recently ; there was an agreement come to between the union and the employers that there should be certain reductions in the price of manufacture in order to keep the trade ; the union and the employers agreed, and the union recommended their members to adopt the agreement, but they have determined to strike. It is no use entering into a contract or agreement with a body which has no power to enforce it.

4533. At the present time you are aware that such an agreement as that between a Trade Union and the employers could not be enforced at law ?—Well, then what is the use of making it ?

4534. You suggest it ought to be possible to enforce it at law ?—Yes. Then there is the question how they are to enforce it against a lot of individual members.

4535. They can enforce it against the Trade Union itself ?—The masters could.

4536. Yes, and the Trade Union could then enforce it, I assume, against the employers individually or collectively ?—I do not know.

4537. At any rate you would wish that they should be able to enter into an agreement ?—If we are to have Trade Unions I wish them to be able to enter into agreements with employers for the purpose of carrying on the work peaceably and amicably.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.

15 Dec. 1904.

4538. One step further: You suggested in 1894 that the contracting associations should be responsible for the observance of a collective agreement by all its members. That almost follows, of course, if it is to enter into an agreement?—Yes.

4539. Similarly, you suggested every member of an association should, during membership, be held to be under a contract with the association for observance of the collective agreement. That of course is almost necessary?—Yes, that follows, at those Yorkshire collieries, I forget the name of them, but they are Newton Chambers'.

4540. Denaby Main?—Yes, the men struck in opposition to the union.

4541. You suggest, therefore, that the Trade Union should be able to enter into an agreement with its members and its members with it, so that the members should have power to enforce agreements against the union, and the union should have power to enforce agreements against the men?—That follows.

4542. That is to say, if I may put it briefly, you suggest that a Trade Union may very well be put in the same position as any other corporate body under the law?—Yes, that is what it comes to.

4543. That is for the purposes of this agreement, but do you see any reason why a Trade Union should not be put in the same position before the law as an ordinary Joint Stock Company?—I do not.

4544. I do not want to lead you further than you ought to go, but you will notice that if you put a Trade Union in the same position before the law as an ordinary Joint Stock Company you give it the right to claim the protection of the Courts for the agreement which it enters into?—That follows I should imagine.

4545. And similarly, therefore, if the Trade Union made default in any of its agreements with its members—pensions or otherwise—an individual member would have power to proceed against the union?—I think he ought to have such power.

4546. And similarly the individual member would have power to obtain an injunction against the union for any dereliction of its funds?—Yes.

4547. And, therefore, equally the union ought to have power to proceed against the individual member if he did not pay his subscription for the term agreed upon?—For the term agreed upon; he does not agree to it for life.

4548. No—for a term?—Yes.

4549. And similarly therefore the Trade Union would have power to ask for an injunction against any of its members against their breaking the agreement that they had entered into for the term; that all follows, does it not, from making the Trade Union liable?—Yes, you cannot bind men to continue to subscribe to a society.

4550. No, that is not the question, but you can bind them to fulfil their own contracts which they have made with the society?—Certainly, while the contract lasts.

4551. And that all seems to follow from the principle of putting the Trade Union in the same position with regard to contracts as another association?—Yes; of course these are legal questions, and I am not a lawyer.

4552. But I am anxious that you should see that it might not be equitable to put the liability of association upon a Trade Union whilst at the same time you refused to that Trade Union the privileges of association?—Quite so.

4553. You suggested that you had seen it stated that the Amalgamated Society of Engineers on an actuarial calculation was insolvent to the extent of a million or more?—Yes; I saw that at the time of their strike in 1897.

4554-5. That has been said, no doubt you know, for the last fifty years of the Amalgamated Society of Engineers?—Yes, I daresay it has.

4556. Are you aware whether the Amalgamated Society of Engineers has ever failed to pay any one of the obligations which it has entered into?—No, but it pays them out of current income; there is no accumulated fund to speak of.

4557. It does pay its obligations?—It does, but out of current income.

4558. Do you suggest that any institution is insolvent because it pays its current out-goings out of current income?—I do not. An insurance company does not do that; it is more in the nature of an insurance company.

4559. Take, for instance, the British Government which undertakes to pay a large number of pensions?—That is quite a different thing.

4560. Let us pursue it; it undertakes to pay a large number of pensions and has no accumulated fund whatever to pay them with, but on the contrary has a debt of 800 millions. You do not suggest that the British Government is insolvent because it pays them out of current income?—It pays them out of the income of the year.

4561. And that is what the Amalgamated Society of Engineers does, is it not?—Yes.

4562. (Chairman.) Has not the British Government power by law to make persons pay their subscriptions whether they like it or not?—Yes.

4563. Has a trade union power to do that?—No.

4564. (Mr. Sidney Webb.) Therefore, you suggest that a trade union would be more solvent if it had power to make its members pay the subscriptions they have agreed to make?

4565. (Mr. Cohen.) You do not say that the Amalgamated Society of Engineers is actually insolvent, what you mean is that you think it is not certain that it will be always able to perform its obligations?—That is what I mean.

4566. There is only an imperfect security you mean?—That is what it comes to.

4567. (Mr. Sidney Webb.) There is just one more question. As you know, there have been a great many conflicting statements made by judges and others as to what is the law on some of these points. Do you think it would be an advantage if we could have a clearer statement of what the law is for the instruction of workmen and others?—If you could, but I do not know how you are to get it.

4568. You think it would be an advantage if we could get the law more clearly defined?—Yes, but that is a big "if."

4569. (Chairman.) Just two supplementary questions: should I be wrong if I described your arrangement between employers and workmen as an anti-union arrangement which would take away the reasons for the existence of a union?—As far as we are concerned it does do that. I was the author of the Sliding Scale as applied to Gas Companies. I was the first to suggest that the Gas Companies should be allowed to pay a slightly increased dividend for every reduction they made in the price of gas. That was adopted by Mr. Forster's Committee in 1875, and it became the law, and the London Gas Companies are all working under it. I said to my directors (I was an officer at the time), "This is not complete unless we include the employees," but they would not listen to it, and so we went on from 1876, when we got our Act, until 1889. I mentioned it once immediately, but it was no use. In 1889 came the Gas Workers' Union, and one day our principal foreman came to me and said, "Unless you do something to attach the men to the company we shall lose all power; we have lost it all in the Retort House; the men are all in the union and they are forcing all the rest of the men in." I then proposed to my Board this profit sharing scheme, which is simply an extension of the sliding scale to the employees, so that for every reduction in the price of gas they now get three quarters per cent. addition to their salary and wages. I was authorised to see the men, and I saw a number of them that afternoon. The unionists and non-unionists all said it was a good thing, but the unionists said, "We must consult the delegates." The non-unionists all accepted it and the unionists all refused. It was an anti-union move no doubt. The unionists said, "This move will not suit us." It was to protect ourselves against the union by attaching the men to the company.

4570. It renders the union unnecessary?—Yes.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.
15 Dec. 1904.

4571. (*Mr. Sidney Webb.*) And the first draft made a condition against the men being in the union?—No, that came three months later from a certain action of the union, but we made this offer to the men: "Any of you who will sign the agreement for twelve months will have a certain bonus." The non-unionists to a man accepted, and the unionists to a man refused, but one day three unionists stokers at Vauxhall surreptitiously signed the agreement, and then they began to be a little independent and the union demanded that they should be dismissed, and this being refused the strike notices were given at once and then came the strike.

4572. (*Chairman.*) This is the true state of the case, is it not; you do not make it a condition that men shall leave their union?—No.

4573. But if they enter into that agreement with you they find that there is nothing for the union to help them in?—Exactly.

4574. And therefore the union dies of inanition?—Exactly, we put in that prohibition against members of the union, because after the union had declared the strike at an end Mr. Thorpe the secretary went to Plymouth and said, "We made a mistake in giving a week's notice; we shall not give the week's notice next time, but we shall come out without notice." A friend sent me that intimation, and I then had a notice printed to protect the Company and the consumers against the Gas Workers' Union: "Notice is hereby given that no member of the Gas Workers' Union will be employed." That was two months after the strike.

4575. (*Mr. Cohen.*) You have stated that in your opinion the great majority of employers are supine?—Yes, speaking of Gas Companies—I do not know about other employers, but Gas Companies certainly.

4576. Having signed this Report of the Labour Commission in 1894, you are not of opinion that under existing circumstances trade unions are injurious?—No, I believe they have done good in many cases.

4577. If all employers were reasonable and all workmen were reasonable trade unions would be quite unnecessary?—Quite.

4578. And strikes would never take place?—No.

4579. But under existing circumstances trade unions have done, in many cases, great good?—I am bound to admit it; they have secured rights for the men that they would not have secured without.

4580. But you are of opinion that in a great many cases the necessity for trade unions can be avoided by employers entering into proper agreements with the workmen they employ?—Yes, it means something more than agreements, it must be the whole of the treatment. A little thing I may mention that we did for our men was this; at the time of the Engineers' strike there was a good deal of talk about an eight hours' day, and then they would have got their breakfast before they went to work, and have only one break. That led me to think, "Is the usual half hour for breakfast enough," and I came to the conclusion that it was not, so after the strike was ended our company gave the men an extra quarter of an hour for breakfast. I do not know anything that has afforded more satisfaction to the workmen than that extra quarter of an hour.

4581. Your evidence on this point tallies, I may tell you, with the evidence of Sir Andrew Noble, who said that he had been travelling in Germany and was very much struck with the great trouble which the employers in that country take to satisfy the wants of the workmen and to make them satisfied with their condition. You think more might be done in this country in that direction?—I do, indeed. Although I have said it was a little thing it must be remembered that to give a working man the opportunity of having a comfortable breakfast with his wife and family is a very great thing indeed. With half an hour he had five or ten minutes walk both ways in a hurry, and if the men had breakfast in the works when we limited their break to a half hour they began to get ready for their breakfast five or ten minutes before their breakfast hour; now there is none of that.

4582. (*Chairman.*) Just to go back to your system, you think where it can be carried out throughout any establishment it is a good thing?—I do.

4583. But it can be carried out partially; it may be that there are certain persons with whom you could make those permanent agreements, while with other workmen you could not?—Exactly.

4584. There is no objection or difficulty in carrying it out partially, is there?—When the union refused it, it was put off another week in our case and some of the men came in and said, "I do not see why we should lose a good thing because these other men are such fools as to refuse it," and then we offered the agreement to any man, and instead of saying, "It is dependent on all the non-unionists or a certain number signing," we said, "Any man who chooses to sign that agreement shall come under this system."

4585. So that it is not an objection to this system that sometimes it cannot be carried out throughout the full extent of an establishment?—No.

4586. In some cases you have said it would be impossible for the employer to undertake to give continuous employment throughout the whole term of the agreement?—Yes, and I have instanced coal mining, where they are obliged to stop two days a week sometimes.

4587. Do you think there is anything unfair or inequitable in an arrangement between the employer and the man by which the employer would say, "If I have work for you I promise to give it to you throughout a term of six months," and for the workman to say, "If you have work for me I promise to do it throughout the six months?"—I do not think so.

4588. Might it not conceivably be of great advantage to the workman in the abstract to know that if there was work for him he should have it?—Yes.

4589. Of course corresponding to that there would be a condition that if there was work for him he would be bound to take it; might not that arrangement be conceivably an advantage to that workman?—To both sides.

4590. (*Mr. Sidney Webb.*) There is just one other question. You suggested that you thought it would be desirable that the different parts of the trade union funds should be separated in some way?—I think it would be fair and right, that is all.

4591. And I think you suggested that that ought to be done, at any rate, as a condition of legislation by law?—The trade unions make a great outcry about it; they say, in reference to the Taff Vale case, "Here are our funds that have been subscribed for superannuation being taken for this purpose," and we say, "Very well, then separate the funds."

4592. My point is this: there have been unions, have there not, in which there have been no benefits, and in which the subscriptions have been limited to trade purposes?—My old friends, the Gas Workers' Union, said: "Ours is simply and solely a fighting body: we give no other benefit."

4593. Have you in your experience of trade unions come to any conclusion as to the relative aggressiveness of unions formed only for strike purposes and unions which have a number of other benefits?—No doubt they are far more aggressive.

4594. You mean that the unions formed only for striking purposes and not having friendly benefits are more aggressive?—Yes, I think so.

4595. Supposing Parliament suggested or required the great unions of the country to separate their funds so that one fund under separate management necessarily would be only for strike purposes, do you not think you might run a danger of making that union more aggressive in respect to that fund?—Well, I do not know, it might. I know this, that I have had many talks with trade union leaders, and they tell me that the very greatest difficulty is to keep their men in order, and if there is only a strike fund the men will say, "What are we getting for it?"

4596. Has not that been one of the reasons why the more far-seeing of the trade union statesmen have always

encouraged the addition of benefits?—I do not know. I am afraid the reason is that it gives them larger funds to fight with.

4597. At any rate you do indicate that there might be a possibility that this separation of funds might lead to more aggression?—It is certainly my experience, so far as I know, that where they are fighting unions only they are more aggressive—I concede that, but whether the separation would make any difference or not I do not know. They would have smaller funds with which to fight.

4598. (Mr. Cohen.) There is one thing that puzzles me about that question. Trade unions pay men who are out on strike?—Yes, and out of work too.

4599. Would not those funds which are so applied be funds for strike purposes?—Yes.

4600. So that when you speak about a separation of funds you refer to funds being separated into funds that can only be applied for what we may call provident purposes?—Yes, sick and superannuation.

4601. No, including support during strike?—No; that is the fighting fund.

4602. Does not your experience teach you that almost all the leaders of trade unions are opposed to such separation?—I believe they are.

4603. If they agreed to such separation you would not then hold the funds provided for provident purposes liable?—No.

4604. And if they do not agree to make that separation, then you think all the funds ought to be liable?—Yes, it is their own complaint. They say, "There is our superannuation money taken for this," and we say, "It is your fault."

4605. You would allow them to separate the funds?—Yes, if they liked.

4606. And their liability to have the funds for provident purposes lost by reason of the liability incurred by the trade unions would result then from their being unwilling to separate the funds?—Yes.

4607. (Chairman.) Have you anything else you would like to add?—I think not; I think I have taken up quite enough of your time. I am most anxious to see employers and employed working together, and I am disheartened about the gas companies; I cannot get them to follow. It is commonly said, "Oh, your system will not do for ordinary employment," and I admit there are very great difficulties, but there are no difficulties in the case of gas companies, and they will not do it.

I may perhaps be permitted to add that to make our co-partnership complete we obtained the authority of Parliament in 1896 to allow our shareholding employees to elect three directors from their number. This was put into practice in 1898, and we have now two workmen and one clerk on the Board taking their part with the seven ordinary directors with complete satisfaction. These employee directors are engaged in their ordinary duties when not attending the Board.

Sir George
Livesey,
M.I.C.E.,
M.I.M.E.
15 Dec. 1904.

Mr. W. COLLISON called and examined.

4608. (Chairman.) I think you were the founder, and you are now the General Secretary and Manager, of the National Free Labour Association?—Yes.

4609. You have furnished us with this paper containing your experience?—Yes.

4610. I suppose you have no objection to our making use of it?—No objection at all.

The Statement is as follows:—

The business of which I have the management is that of supplying labour wherever there may be a demand for it. The Executive who conduct the business take their stand on the right of every man to work without interference. If the Clauses of the Bills which have been sent to me (*Vide Appendices, pp. 7 and 8*) "to legalise the peaceful conduct of Trade Disputes and to alter the law affecting the Liability of Trade Union Funds" become law, they would legalise such interference, and thus throw obstacles in the way of supplying legitimate demands for labour which labour itself and those who supply it have the undoubted right to be left free to meet. The right of one man to "peaceably persuade" another is not denied. But Clause 4 of Sir Charles Dilke's Bill, 1904, (*Vide Appendices, p. 8*), goes much farther than this. It sanctions the attendance of "any person or persons" . . . "at or near the house or place where a person resides, or works, or happens to be, or the approach to such house or place," to enable such persuasion to be carried into effect, and at a time, too, when there would naturally be excitement in the minds of those sought to be persuaded as well as on the part of the persuader or persuaders—excitement likely to be increased by persistent and unlimited attempts to persuade, however peaceably the unwelcome operation might or might not be carried out. The Legislature would thus be sanctioning a course of action well calculated to disturb the public peace, for the homes and places of business of employer and employed and approaches thereto, must at all times be open for "any person or persons" to assemble who desired to do so, involving the important social and constitutional principles of invading the privacy and interfering with the liberty of the subject by watching, besetting, and persuading, in a matter in which the subject has a perfect right to demand that he should be left to exercise his own judgment, free and unbiassed.

In my position as the founder and General Manager of the National Free Labour Association I have had an un-

usual experience in the matters of (1) "The practices of Trade Unions"; (2) "Watching and Besetting"; (3) "The conduct of Strikes and Trade Disputes."

Mr. W.
Collison.
15 Dec. 1904.

(1) THE PRACTICES OF TRADE UNIONS.

A Trade Union may be defined as a number of men in a particular trade, banded together for the purpose of securing from their employers what they consider the best possible terms for themselves.

To provide working capital each member has to contribute so much per week, so that the union is practically an intermediate sweater between the employer and the employed. To attract adherents, provision for the sickness and old age of its members is usually advertised as one of its objects, but so limited, so uncertain, and so much below those derived from ordinary Friendly Societies have the benefits always proved, that this object of Trade Unions is hardly worth considering. So far the aims and objects of Trade Unions appear fairly reasonable. It is only when we come to consider the *Practices of Trade Unions* that the cloven hoof appears. Man has a right to sell his labour on his own terms, but he has no right to dictate terms to others. The trade unionist arrogates to himself the right to say where others shall work; when they shall work; what hours they shall work; at what speed they shall work; what they shall charge for their work; and, in many instances, what men they shall work with. They insist that others shall not do piece work, or overtime; that one man shall attend to only one machine, and that he must be highly paid for so doing, although he could easily attend to six, or more of them, like the workmen of their foreign competitors; that the weak man and the loafer shall set the pace to, and limit the wages of, the vigorous man and the expert, and, in short, that, no matter though their employers and the trade of the country be ruined, they shall only give the minimum of labour for the maximum price.

(2) WATCHING AND BESETTING.

The trade unionist is not allowed to enjoy his idleness and strike pay in peace however. He is liable to be called upon to perform picket duty. Pickets, which may be composed of a small or large body of men, are placed at the entrances to, and at other points in the neighbourhood of the works where the strike is in progress, their duties being (1) to prevent old hands returning to work; (2) to prevent new comers from taking work; (3) to prevent new hands

Mr. W.
Collison.
15 Dec. 1904

obtaining lodgings or provisions ; (4) to molest, in every way, men who are at work ; and (5) to secure local sympathy and support. These objects are carried out, not by fair argument and persuasion, but by every species of chicanery, nagging and insulting language, hooting, and groaning, and even by brutal assaults. Their instructions usually are to keep within the letter of the law when the police or independent witnesses are about, but, at other times, to use their own discretion. I have known cases in which the trade union officials have sent union men as spies to our branch offices to make application for employment during strikes, in order to see how the work is getting along, and if they succeed in obtaining employment their instructions are to destroy the machinery, and spoil the work of the new hands, to do all they can to get the free labour men to leave, by circulating rumours that the employers are about to give in, and that the "blacklegs" will all be "sacked," sending anonymous communications to the employers, saying that the free labour men are applying for work elsewhere, and are about to leave in a body, with the idea, firstly, of unsettling the new hands, and, secondly, to make the masters distrust them. This is reckoned by strike leaders a very clever dodge, and is known in trade union circles as "dead head" running.

(3) THE CONDUCT OF STRIKES AND TRADE DISPUTES.

The men who profit by strikes and trade disputes are the paid organisers and other trade union officials, and they are principally responsible for creating them. Besides having a chance of manipulating the strike pay, with such items as £50 paid fares and expenses to "blacklegs" sent home, and strike pay paid to non-unionists for which they are never called upon, or able, to produce vouchers, they know that strikes bring men to their unions, that if there were no disputes their dupes would have time to calmly consider what they paid their money to the union for, and that this would be fatal to the union and to their own prospects. They have "shop lawyers" in most large works, who harass non-unionists, stir up strife, and fan the flame of discontent among the trade unionists, so that when the agitators think a strike necessary they have not far to seek for a pretext. It may be for higher wages, or merely because some detail of shop management happens to clash with the rules of the union. The order is given to strike ; notices are sent broadcast to all in their particular trade, and "blacklegs" warned off ; pickets (whose duties I have already enumerated) are selected ; funds for carrying on the strike are collected from every available source ; negotiations with the employers proceed ; the strikers are harangued to keep their spirits up, and to throw dust in the eyes of the subscribing public ; and emissaries sent to seek work at the shop where the dispute is, in order to sow, by fair means or foul, dissension between the new hands and their employers.

I shall be prepared when giving my evidence to prove and give instances of the foregoing statement, and show the Commissioners our collection of trade union arguments as used by them during recent strikes—their so-called "peaceful persuasion" and picketing, during trade disputes.

I believe the existing law would afford ample protection to men who desire to exercise their right to work without interference, were it not for Clause 2, Section VII. of the "Conspiracy and Protection of Property Act, 1875." This clause legalises watching and besetting if done "merely to obtain or communicate information." In my experience the qualifying limitation has never been adhered to by watchers and besetters. On the contrary, the privilege accorded by it has been abused, to the serious detriment and injury of willing workers. In my opinion, even if the privileged limit were always observed, a legislative right to watch and beset a man's house and place of business during a trade dispute, apart from his undoubted right to be left free and unhindered as to his liberty of action, would be likely to lead to breaches of the public peace. I am strongly convinced that watching and besetting should not receive legislative sanction in any shape or form. It interferes with the liberty of the citizen, being in itself a form of intimidation and menace, and has too often been made the stepping-stone to violence and outrage against which protection has been equally as often inadequate to prevent injury and loss.

Those who advocate the liberty of labour regard this clause as being an infringement of both the liberty of the

subject and the rights of citizenship. It gives working men the right to "watch and beset" other working men, if such watching and besetting be put into force "merely for the purpose of obtaining or communicating information." We contend that, the law having fully emphasised the right of men and women to work free and unmolested, and having accepted the manifest duty of protecting them in the exercise of that right, it stultifies itself when it permits interference for any purpose, and particularly at a time and place when disputes are on. This permission has led in the past to gross acts of injustice, to personal injury and wrong, and to constant disturbances of the public peace, and we contend that the qualifying clause ought to be abolished as not only absolutely unnecessary but as being a positive source of injustice and wrong to the individual as well as a public menace and a danger.

THE WORKING MAN'S CHARTER GIVEN BY LAW TO FREE LABOUR PROVIDES ;

(1) What "Every Person" may not do.

Section VII.—Clause I.—"The Conspiracy and Protection of Property Act, 1875."

"Every person who, with a view to compel any other person to abstain from doing, or to do, any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority uses violence to or intimidates such other person, or his wife, or children, or injures his property ; or persistently follows such other person about from place to place ; or hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof ; or watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place ; or follows such other person with two or more other persons in a disorderly manner in or through any street or road, shall on conviction thereof by a Court of Summary Jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding £20, or to be imprisoned for a term not exceeding three months, with or without hard labour."

(2) The extent to which "Every Person" may Watch and Beset.

Clause II.—Same Section.—Same Act.

"Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section."

(3) What is "A Crime ?"

[By Section 3, Clause 1, of the same Act it is enacted that : "An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime."]

(4) The Law defines "Crimes."

[All the offences enumerated in Clause 1 are "crimes" within the meaning of the Act, they are all "punishable as a crime" when committed by "one person," and are therefore "indictable as a criminal conspiracy" if committed by "two or more persons."]

(5) "A Conspiracy at Common Law."

[The Trade Union Act, 1871, Section 2, runs thus : "The purposes of any trade union shall not, by reason merely that they are in restraint of trade, be deemed to be unlawful, so as to render any member of such trade union liable to criminal prosecution for conspiracy, or otherwise."—*Note.* (Neville on Strikes.) "This section must be read in conjunction with Section 3 of the "Conspiracy and Protection of Property Act, 1875." Thus a combination, which is entered into merely for the purpose

Mr. W.
Collison.

15 Dec. 1904.

of restraining trade is legal, yet if the combination attempt to effect the restraint by unlawful means (i.e. any act enumerated in the "Conspiracy and Protection of Property Act, 1875") then such combination ceases to be merely in restraint of trade, and becomes a conspiracy at common law, and punishable as such."

It is on the foregoing that those who advocate the liberty of labour take their stand, simply claiming the right to work without interference or molestation, as provided by the law. On the same legal grounds they resent, as illegal, interference and molestation, which have hitherto constantly been put into operation by trade unions in manifest violation of the law, which clearly specifies what acts are illegal.

Thus, "the consequences of the judicial decisions which bear on the subject of trade combinations" must be to make those combinations amenable to the law, the violation of which, by them, inflicts manifest injustice and wrong upon others. That the law never "intended" to give to these combinations "perfect immunity" from the consequences of their acts is abundantly manifest by the care with which workmen are sought to be protected by the Act of 1875 from the very acts which trade combinations have hitherto committed, and claim the right to commit with impunity, and which, too, they now demand shall be restored to them.

The "bearing of the decisions on trade disputes" will be to eliminate compulsion in every form, leaving industrial affairs to be regulated, as all other affairs are regulated, without compulsion. Freedom of action and freedom of the subject are the principles contended for. Illegal interference with those principles is resented as an injustice and a wrong.

As to Clause 2 in the Bills (*Vide Appendices, pp. 7 and 8*), I am of opinion that such clause, evidently included for the purpose of protecting trade union funds from the consequences of wrong-doing, is not at all necessary to "legalise the peaceful conduct of trade disputes." On the contrary, it would destroy the chief incentive to such peaceful conduct, and thus defeat the object the proposed measure has in view, for everything which tends to remove responsibility for the consequence of taking wrong action naturally gives an impetus to wrong doing. I believe, therefore, that if Clause 2 became law, willing labour, such as I represent, would be prejudiced in a commensurate degree.

As to "any facts of importance in connection with trade disputes and trade combinations which have occurred since the Royal Commissioners on Labour issued their Report in 1894."—I would quote my own experience of strikes since then—the increased virulence with which coercive and intimidatory tactics have been persisted in by trade union pickets—violence and injury to non-unionists—forcing men into unions, not with the object of developing the benevolent and friendly side of trade unionism, as is stated, but for the purpose of adding to its dominating power, so as to enable it to dictate its own terms, however unreasonable, and if these be not conceded, to paralyse the entire industrial and trading machinery of the country, in order to bring employers and non-union workmen into compliance—inaugurating a permanent reign of terrorism and coercion as the trade union policy of the country.

In supplement of the foregoing it will not be out of place to briefly refer to the causes which have forced upon the attention of all earnest men amongst the working classes of the country the necessity for the formation of a powerful National Free Labour Association, with branches all over the country, for the protection of labour against the tyranny and dictation of the aggressive Socialistic trade unions.

The London Dock Strike in 1899 brought into existence a large number of the new labour unions, whose leaders in most instances were mere outsiders, unconnected with the particular trade and industry they professed to lead, but who possessed the qualification of being prominent members of the Socialist party. In a word, the Socialist party captured the new unions, and determined to run them for the propagation of their own peculiar and anti-English ideas. The weapons which the leaders of the new trade unions elected to use were strikes, intimidation, boycotting, and unlawful picketing, and for more than three years they employed these detestable agencies, with more or less success, until the indignation of the great body of

working men throughout the country, unconnected with trade and labour unions, were fairly and honestly aroused.

Amongst the new unions, the most active in promoting strikes, here, there, and everywhere, were the Dockers' Union, the Sailors and Firemen's Union, the Gas Workers' Union, and the National Coal Porters' Union. These organisations were assisted in their suicidal policy by a body calling themselves "The Federation of Riverside and Carrying Trades," and the first declaration of policy, on the part of the combined unions, was to declare in favour of a national strike, on a given day, which was to dislocate the entire trade of the country, and place "the whole of the implements of production and industry in the hands of the workers." This desperate stroke of policy on the part of the leaders of the new unions alarmed their supporters in the ultra Radical press, who stated that in the event of a national strike they could not enlist public sympathy, "by the influence of bands, banners, and begging boxes," and the idea was reluctantly abandoned, only to be followed by a series of unprovoked and senseless strikes, fomented entirely by the new union leaders, which never before occurred in the industrial history of the British Empire.

I could pursue this distressing topic *ad infinitum*, and could demonstrate the folly, the wickedness, and incapacity of the leaders who have constituted themselves the champions of the new trade union movement. However, I am content to point out that the strikes, fomented by these agitators at the Royal Albert and Victoria Docks, London, at the Ports of Cardiff, Southampton, Barry, Swansea, Bristol and Hull, the gas workers' strikes at Leeds, Manchester, and the South Metropolitan Gas Works were all unnecessary and abortive strikes. The strike of London coal porters in 1892 was a disastrous failure. The strike of the unfortunate London postmen (fomented entirely by Socialist agitation) led to wholesale dismissals from the service by the then Postmaster-General, bringing ruin and starvation to the wives and children of these ill-advised men, which will not be readily forgotten by the public at large. Also the contemplated revolt of the London police, and the soldiers in the various barracks in and around the metropolis, although commenced in one form or the other, ended in disaster to their Socialist promoters, not adding to the respect and esteem with which a number of indispensable national servants have always been regarded by the people of this country and the Empire at large.

All these strikes were conducted with extraordinary violence, setting every vestige of common law at defiance; picketing and watching and besetting were pursued with extraordinary virulence. Men were watched and followed miles away from their residences and places of employment, and in many cases brutally ill-used. Bands were hired to play the "Dead March" outside the houses or lodgings of free labour men. Willing workmen had to be escorted to and from their work by police and soldiers. Shopkeepers, publicans, and landladies were intimidated in order to prevent them serving the free labour men with food or refreshments, or to give them lodgings. The children of the free labour men were reviled, ill-used, and spat upon, going to and from school, by their schoolmates, at the instigation of their trade union fathers.

Not only was the liberty of a man to work during a strike interfered with, but no workman was allowed to go to work without being in possession of a trade union ticket, and in the case of the Sailors' and Firemen's Union as much as £10 to £15 was extorted from "Poor Jack" before he was allowed to become a member of this tyrannous Sailors' Union and made eligible to follow his legitimate employment.

At this time, the Dock Labourers' Union, led by Burns, Mann, and Tillet, who claimed to be the originators of what they are pleased to describe "the New Trade Unionism," decreed that their books should be closed—that no new members were to be enrolled—that they were now sufficient in numbers to perform the work at the docks, and that any addition thereto would but impede their progress, by being brought into competition with the accredited members of the Dockers' Union. Thousands of workmen in the Port of London declined to be boycotted, robbed, and tyrannised over by the new labour unions, and hence the first attempt on the part of working men to vindicate the principles of industrial freedom was begun.

Mr. W.
Collison.
15 Dec. 1904.

A few intelligent working men banded themselves together, and the powerful institution known as "the National Free Labour Association" was founded. On the 16th of May, 1893, the first meeting was held, at which a committee of management was appointed, and it was decided to open free registry offices in London and other parts of the United Kingdom for the registration and supply of every class of labour in connection with all branches of trade and manufacture. In twelve years 500,000 workmen, belonging to 150 different trades, have been registered, and the association has fought, and been completely successful, in no less than 500 pitched battles with aggressive trade unions in different parts of the United Kingdom. From its inception the Association made it clear that it intended primarily to secure to every man freedom to work on his own terms without interference, to protect those who are threatened, to prosecute those who threaten, and at the outset, before undertaking any strike, it stipulated that the employers should provide board and lodgings in their works for the free labour men on their arrival, and protection if necessary. The Association also organised a staff of trained emergency men who undertake, as far as possible, to protect from trade union pickets workmen who are willing to work, and who have been selected from the Association's register to do so. In every strike this policy was successful.

During the eight years previous to the Taff Vale and other legal pronouncements—1893–1901—it is estimated that no less a sum than £285,000 has been spent by employers in protecting members of the Association from trade union pickets during strikes, and five members have been killed and 250 seriously injured during the same period. Since the Taff Vale decision the Association has fought some twenty-five large strikes, and it has only cost a little over £4,000 to protect free labour men from the violence of pickets. This conclusively demonstrates that the trade union leaders were solely responsible for the violent assaults and brutal outrages of the pickets during the ante-Taff Vale period, as since trade union funds have been held responsible for the action of trade union officials and pickets, these acts of violence have almost entirely ceased. During the recent strikes at the Medway Steel Works, Rochester, Jarrow Chemical Works, Newcastle-on-Tyne, and the Covent Garden Porters' strike, free labour men were marched through the streets in a body, right through the crowds of strikers and their sympathisers, without being even booed at.

4611. Your first point is on peaceful picketing: Will you say briefly what you think of that?—There is no peaceful picketing.

4612. Do you mean that there is none allowed by law or that picketing is not peaceful?—I have never seen picketing conducted peacefully yet, and I have had more experience of strikes than any other man in this country.

4613. Therefore are you in favour of the total prohibition of picketing?—I am in favour of the abolition of Clause 2, Section 7, of the Conspiracy and Protection of Property Act, which is taken by trade unionists to allow picketing, watching and besetting.

4614. You mean attending at the house or works for the purpose of receiving and giving information?—Yes, and not only at the works but all along the road home; men are followed from their houses to the works and are waylaid and interfered with miles away from the works and the place where they live. Of course, "peaceful" picketing is a misnomer; picketing is war, and you cannot have peaceful war.

4615. (Mr. Cohen.) Suppose you have picketing by one person, do you call that war?—I have never seen picketing done by one person.

4616. Would you say there can be no such thing as picketing by one person?—Not in the way picketing is conducted by trade unions.

4617. Would you make picketing by two persons illegal?—No, I should not object to picketing by two persons for the *bond fide* purpose of giving or receiving information.

4618. You would not object to picketing by two persons unless there is intimidation or threats?—Not for the *bond fide* purpose of giving information, but trade unionists justify picketing by saying that employers and our association take men to work during disputes without

letting them know that there is a dispute on. Of course, that is a mistake. We never send a man to work during a dispute without his signing our strike agreement form.

4619. Who are "we"?—The National Free Labour Association; we never send anybody unless they sign the form of which I have copies here.

4620. (Chairman.) We should like to see the forms.

The witness handed in several copies of the following form:—

NATIONAL FREE LABOUR ASSOCIATION.

W. Collison, General Secretary.

Labour Register—Application Form—C.

Date.....Registered No.....

Name.....

Address.....

Age..... Occupation.....

What class of work have you principally been used to?.....

What wages have you been in the habit of receiving?.....

Name and Address of your last Employer.....

How long Employed?.....

When did you leave?..... Why?.....

Shop No. No. or Name of Foreman.....

Name and Address of previous Employer.....

How long Employed?.....

When did you leave?..... Why?.....

Shop No. No. or Name of Foreman.....

What wages do you want?.....

Society or Non-Society Workman?.....

Married or Single?.....

District Secretary's Signature.....

Office Stamp.....

I, the undersigned, being a competent Non-Society workman, hereby agree to accept employment with.....

for the term of the present strike and beyond at the wages prevailing.

Dated this.....day of.....19....

Witness {..... Signed.....

It is impossible for the unionists to prove that men are sent by our association to disputes without knowing all about them.

4621. Of course we know that during strikes there is the liability—perhaps I might almost say the certainty—of certain illegal actions being done, but if they are done the law, as they are illegal, takes notice of them, and therefore we do not require any information upon that point?—I think it is generally admitted by trade unionists that there is only one sort of picketing that will keep a black-leg from going to work during a strike, and Mr. Sidney Webb in "Industrial Democracy" states, "Nor can we see any justification for such an amendment of the Act of 1875 as would make lawful the only sort of picketing likely to be effective in keeping off black-legs during a strike."

4622. (Mr. Cohen.) You are the founder—what is the name of your association?—The "National Free Labour Association."

4623. When was it founded?—In 1893.

4624. Is it registered?—No, it is not registered under the trade union Acts.

4625. Has it any banking account?—Yes.

4626. With whom?—The London and South Western Bank. I have a copy of its rules and constitution, if you would like to see them.

4627. (*Mr. Cohen.*) Although this *précis* is put in by the witness, I suppose it is not to be taken that we agree with every statement in it unless we cross examine, because there are a great many statements in it with which I entirely differ, but I do not think it worth while to cross-examine; I mean that it must not be taken that we agree to the statements in this *précis* if we do not cross examine this witness.

4628. (*Chairman.*) Of course we have witnesses coming before us presenting very different opinions, and we cannot agree with them all.

4629. (*Witness.*) My contention is that the trade unionists encourage violence during strikes.

4630. (*Mr. Cohen.*) You are opposed to trade unions?—I am not opposed to trade unions properly conducted.

4631. Then why should they not be encouraged?—They encourage violence during strikes.

4632. That is what you say, but we have just heard from a very eminent witness that strong trade unions have generally prevented strikes and that there would be a far greater number of strikes if there were not trade unions. You differ from that?—Not in the case of some trades, for instance, the boiler-makers have tried to avoid strikes, but you never find any resolutions at trade union meetings against acts of violence; you find lots of men expelled for other causes in the annual reports of trade unions, but you never find an account of any members being expelled for committing acts of violence. You find that the union solicitors always defend men prosecuted for acts of violence, whereas if they did not want acts of violence you would find the union solicitors prosecuting and the trade unions themselves bringing the members to book. Strikes are conducted by an executive council, and in my opinion this executive council is or should be responsible for the things done.

4633. (*Chairman.*) And the unions also, sometimes, pay the fines of the workmen who are fined for violence?—They pay the fines and defend them on every occasion.

4634. If a union really instigates violence, and proof can be got of that, the union is subject to the law?—No.

4635. (*Mr. Cohen.*) Do you not know of cases in which trade unions have paid for breaches of agreements entered into by their members?—Yes.

4636. Then they do not encourage breaches of agreement always?—They do not pay before they are compelled.

4637. I mean before any trade unions had been compelled to pay any money; it is only quite recently that they have been compelled; before trade unions could be

sued at all, according to general opinion, do you not know cases in which, where men have broken their agreements the trade union has come forward and paid?—No, I do not think I do know a case of that kind.

4638. (*Mr. Sidney Webb.*) Have you not heard of such cases in the Boilermakers' Society?—No.

4639. Are you familiar with their monthly report?—Yes, and I get it very frequently.

4640. Do you read it?—Oh, yes, and utilise it.

4641. Have you not seen many such cases in the last five years?—I cannot say I have seen many such cases.

4642. (*Mr. Cohen.*) Do you deny that there are such cases?—No; I do not deny it.

4643. (*Chairman.*) Do you know of the case which we have heard of here, where there was a dispute between the plasterers and the bricklayers and the Trade Union did pay to the employer a portion of the damage which he had suffered in consequence of the strike between the two trades? Have you ever heard of such a case as that?—No, I have never heard of a case like that.

4644. You are the Secretary of the Association. Have you sent in the rules to us?—No, but I have them there. I thought they would very likely be asked for, and I brought some copies (*handing in the same*). I have got a photograph and catalogue of some of the Trade Union arguments that have been used upon our members during recent disputes, if I may be allowed to put them in.

4645. (*Mr. Cohen.*) I do not think they should be put in.

4646. (*Sir William Lewis.*) What are you referring to?—I have got a photograph, and I could have had the originals here of the different weights and missiles that have been used against us.

4647. I do not think we need them. Is there anything else you wish to add to what is stated in this *précis*?—I supplied a supplementary report as to the causes which brought our association into existence, and that is before you (*Vide p. 261, col. 1., ante*).

4648. (*Mr. Cohen.*) There is another association called "The Association of Non-Unionists"; do you know anything of that?—I never heard of it.

4649. You never heard of it?—I have seen accounts of it in the papers, but I do not know anything about it.

4650. They do the same kind of work as you do?—I have never heard of their doing any work in the way of supplying labour.

4651. Really?—Yes.

Mr M. C. JAMES called and examined.

4652. (*Chairman.*) You are the Managing Director of the Mercantile Dry Dock Company, Jarrow-on-Tyne, and Chairman of the North East Coast Ship Repairers' Association?—Yes.

4653. You will allow us to make use of your *précis* of evidence?—Certainly.

The Statement is as follows:—

The Association I represent consists of practically all the firms engaged in the ship-repairing industry on the north-east coast of England, owning 33 docks and five slipways, and paying annually in wages about £500,000.

I myself have been connected with shipping, shipbuilding and repairing since 1870, and I have had considerable personal experience of strikes and disputes with workmen employed in the various industries connected with shipping and particularly ship-repairing.

With the exception of railways and gasworks, in no industry is it so essential that work shall continue without interruption, that there shall be no stoppages of work, but that amicable relations should exist with our workmen.

It is of the greatest importance that ships shall be repaired with as little delay as possible, because the time whilst under repairs is altogether unremunerative to the owners, and in most instances ships have limited time to take up or perform their charters.

The unrestricted liberty sought to be given to Trades Unions by the Bills (*Vide Appendices, pp. 7 and 8*), of which I have received copies, would most prejudicially affect our industry, if not ruin it.

In the first place, with respect to "peaceful persuasion," in my opinion such a thing as "peaceful persuasion" is impossible—in fact, I consider there is really no such thing in connection with trades disputes; it is a pure Trade Union fiction. My experience is that when a strike takes place acts are committed that are distinctly coercive, and it is impossible to prove a case against the perpetrators. It is found that even the victims are unwilling to prosecute, or to assist in prosecuting the offenders, and this from fear of after consequences. To fully understand or appreciate the peculiar influences which may be brought to bear by workmen upon workmen during trades disputes, one must have lived in purely industrial towns, and fully understand the social conditions existing among working men.

I have known many instances where even the union men have desired to remain at work when the union's officials have ordered them out, but they dare not remain, and where non-union men have, out of sheer fear, left their employment. Cases of this kind, as late as the summer of 1903, occurred in my company's works.

Picketing is in my opinion unnecessary, and the arguments urged in its favour are a slur upon the intelligence of working men. When a dispute arises every man in the shop, whether directly concerned or not, is soon fully acquainted with the fact, each Trade Union having what is named a "Shop Steward." Picketing is not indulged in for the purpose of obtaining or communicating information, but for the purpose, firstly, of keeping a check on the gate, so that the union may be apprised should any union.

Mr. W.
Collison.
15 Dec. 1904.

Mr. M. C.
James.
15 Dec. 1904.

Mr. M. C.
James.
15 Dec. 1904.

man attempt to exercise his right of continuing at work or of resuming it; and, secondly, to coerce, as opportunity affords, any non-union man who may be working or who may attempt to work. Besides, the presence of pickets at the gates of the works tends to create disorder and obstruction as the general body of workmen, not involved in the dispute, enter and leave the works.

Nowadays when a strike occurs, even a small one, the newspapers soon inform the whole community of the fact.

A single individual may not consider it a menace if another single individual speaks to him even in a threatening manner, but a single individual is cowed by force of numbers, morally and physically, even if the numbers commit no overt act. Numbers constitute annoyance and terrorism, and in view of human passions uncontrolled by any form of discipline or of law, would irresistibly degenerate into at least covert threats, badgering and in nine cases out of ten, something worse, such as occurrences which I have witnessed in time of trade disputes, when I have seen men followed from their works to their homes by large crowds, and men, women and children shouting at them, hustling them, and throwing things at them. I have also seen in the neighbourhood where I now live, the windows of the houses of the men, who had dared to remain at work, boarded up to prevent them being broken by the stones and other projectiles thrown by the so-called "peaceful persuaders." I have also seen men, returning from work, pushed off the footpath by some of the men on strike, and yet no word spoken to them.

In the ship-repairing trade such dangers would be greatly accentuated by reason of the peculiar trade carried on, the circumstances of the trade and the geographical position of the docks and works.

For instance, places such as North or South Shields, Hull, Birkenhead and some parts of Cardiff, where the works are bounded on the land side by tortuous and narrow streets and alleys affording numerous hiding places or means of rapid exit from the scene of operations. If any infringement of the law did take place there would be the utmost difficulty in catching the offenders even if there were an organised attempt to do so.

Again, ship-repairing yards are, to a larger extent than other works, open to others than employees, such as the crew and others who may have business with the ship. It is thus a very difficult matter to properly control the entrance gates and prevent unauthorised persons getting access to the works.

In the ship-repairing industry on the north-east coast wages are good, and work is not so casual as in purely repairing districts, owing to the number of other outlets for employment, such as ship-building, engineering, etc.

Non-union workmen to some extent get employment at present, but there is not that freedom that I should like to see. Employers in our Association do not object to Trades Unions, on the contrary, we prefer to do business with properly organised bodies of workmen, and have continuously aimed at establishing and maintaining amicable relations with them.

During the last two years strikes have been few, and it is our desire to see them fewer in order that we may have that security in completing our contracts which is absolutely necessary if we are to retain our trade in face of the steadily increasing competition of the near Continental ports. It is, however, our firm belief that if any of the Bills were passed disputes and strikes would be promoted thereby.

In the one or two strikes we have had in recent years there has been nothing serious to complain of, and we have not been able to discover that the men suffered any detriment to their case as a consequence of their orderly conduct of the strikes. Our Association welcomes discussion with the workmen and believes that such friendly discussion is far more likely to lead to industrial peace than any other method that has yet been suggested. In pursuance of this policy we employ, at considerable cost, a technical delegate who was formerly a technical delegate of the Boiler Makers' Society. When a dispute of any kind arises we endeavour to induce the men to remain at work, send for their technical delegate and we send for ours. The two delegates go into the matter in dispute, and being men possessed of full knowledge of the trade customs and prices in the district, are frequently able to adjust the difference without reference to either the Trades Unions or the Employers' Association. This method was arranged

with a view to preventing stoppages of work, but in many cases men decline to wait for the delegates and leave their work, but such cases are fewer than formerly. In ship-repairing a favourite move on the part of the workmen is to start work on a ship, take off several bottom plates so that she cannot float and then go out on strike on some new demand not covered or contemplated in the piece-work lists agreed on between the employers and men. My company has had several cases like this. This kind of thing occurs mostly in times of pressure.

In some disputes which our Association have had with the unions, we have suffered through some unions, which embrace several distinct classes of men in one union, drawing the whole of their members out when a dispute is only with one trade, and in the case of a dispute with the chippers and painters the whole of the labourers came out. Similarly the Boiler Makers' Society may take out the platers, caulkers, and riveters, although the point in dispute may affect only one of these trades, say, for instance, the riveters.

While we do not object to employ union men nor object to deal with trades unions, we are of opinion that employers should not be hampered in exercising their inviolable rights as free subjects of a free country to establish contractual relations with any workmen whether or not they belong to a trade union. Frequently the trades unions have sought to make the employers practically agents of the trades unions—debt-collectors for the trade unions—coercive instruments to compel men to join the unions.

With respect to the clause absolving the trades unions from damages for their illegal or lawless acts, this would give such enormous scope for trade union action without fear of consequences, indeed with absolute confidence that the law thereby relieved them of the consequences, that it would be next to impossible to carry on any industry, more especially ship repairing.

As illustrating the liability of Unions for their actions, the ship repairing industry has been considerably hampered through the Boiler Makers' Society insisting that the drilling out of rivets should be done by their members and not by drillers, who formerly did the work. The result was that a large quantity of work was spoiled and my company wrote to the Boiler Makers' Society that it was through their action we had been put to the loss, and after much trouble we recovered a sum of money in part payment of the loss which we had suffered through being compelled by this society to have drilling work done by men who are not drillers.

It is not so much what the intentions of the leaders of the trades unions are, but what the rank and file would do under such circumstances. I have known several cases where the men declined to return to work although ordered to do so by the Executive Council of their union, and I have also known them to decline to return although the terms of settlement had been agreed upon between their representatives and the Employers' Association.

I have also known many instances where with difficulty a trade union has under present circumstances induced their members not to break their legal contracts and engagements. There would be no restraint if the clause to which I refer were passed.

Under the law as it exists to-day each individual firm is liable for damages for wrongful acts; why should trade unions be privileged in promoting and carrying on strikes to do acts that are illegal, when done by an employer?

I regard the Bills as inducements to workmen to strike, and consequently if the provisions became law, many of the arrangements at present in operation between employers and employed, for the purpose of avoiding strikes, would be imperilled and a distinct set back to conciliation would ensue.

The difficulties in the way of carrying on our industries would be greatly increased. Contemplate, for instance, the position that might be created in times of grave crisis, when the ship repairing industry in particular might be called upon to make extraordinary exertion to cope with the state of affairs. It is in times when there is a great pressure of work that there is the greatest danger of strikes and disputes owing to unreasonable and impulsive demand by the workmen.

In the industry I represent I cannot remember any acts on the part of workmen such as those which gave rise to the Taff Vale and *Quinn v. Leatham* decisions, and we do not want any Act passed that will in the least way give encouragement to such acts.

It is urged by trade union leaders that the law operates unequally as between employers and trade unionists, and in favour of the former. I think the law operates really in favour of the latter as against the former. For instance, in the event of a breach of the law by an employer the individual workman can sue him and if successful in getting a verdict will be able to get his damages. In the event of an employer having to sue an individual workman, it is not always certain that the employer will be able to get his damages even if awarded. On the one hand is a responsible firm, on the other hand an individual who, as likely as not, is without means.

Further, the employers' organisation which I represent employs officials and agents practically in the same way as trade unions. We have a secretary and we have technical delegates who correspond to the organising delegates of trade unions. We also have an executive committee. If any of the officials of our organisation did wrongful acts in connection with a trade dispute I take it they would commit the association, which in that case could be sued by the individual workman concerned backed by the trade union funds.

It is thus seen that the individual workman has two strings to his bow.

Supposing an employer discharged a workman in breach of contract, if this were done at the instance of the association to which the employer belonged, I take it the man could either sue the individual firm or the association. If it were not done at the instance of the association the man would still be able to sue his employer.

But supposing a man left work in breach of contract on his own responsibility without the order or authority of his trade union, then the individual workman would have to be sued. If done at the instance of the trade union, then in like manner the employer could sue the trade union or the workman.

The law, it seems to me, as at present constituted, operates if anything in favour of the men, or at any rate it cannot be said, I think, that it operates in favour of the employer.

If the Bill, which passed its Second Reading last session, becomes law, under Clause 3 if the men throw down their tools at a moment's notice at the instance of their trade union, their trade union could not be sued, notwithstanding that enormous damage may result to the employer from such action.

4654. Your association has some rules, I suppose?—Yes.

4655. Do these rules provide in any way for assistance to be given by the association to any of the members who are having a strike against them?—Do you mean financial assistance?

4656. Any kind of assistance, financial assistance or looking out?—No financial assistance.

4657. Do you look out one to support the other?—Yes.

4658. Do you send round any lists of the workmen who are on strike?—Sometimes we give the names of men who have gone out on strike. We simply give their names.

4659. Sometimes?—Yes, not always.

4660. (Sir William Lewis.) Is that when they have given notice or when they have not given notice?—When they have not given notice.

4661. That is when they have broken their contracts?—Yes.

4662. (Chairman.) Would you not give the names of those who had organised a strike without breach of contract?—We might, under certain circumstances.

4663. The whole point is to prevent those men being employed during the strike and strengthening the forces against you?—Yes, but so far we have simply sent the names when the men have gone out by breach of contract without notice. The bulk of our strikes have been without any notice whatever; we are very much more troubled with smaller disputes than with strikes on a grand scale.

4664. (Mr. Cohen.) You do not mean to say that you draw any distinction; it is a fight, and you, of course, try to protect yourself?—Yes.

4665. And you would give a list of the names of the men who have struck generally?—We give notice of the strike, and as I say circulate the names of the men.

4666. (Sir William Lewis.) But I understood you to say that you gave the names where men had left, having broken their contracts?—Yes.

4667. (Mr. Cohen.) You have not had any other kind of strike? I understood you to say that in all cases the men had broken their contracts?—I say that in all cases where the men have broken their contracts, and we think the strike is of sufficient magnitude, our secretary would advise all our members that these men have gone out, and a list would be given of the names, but in other cases, say where there was a general strike it would be a matter for consideration of the association as a whole whether we would give the names or not.

4668. (Chairman.) If you do that, of course, you do not object to the workmen sending out their black-lists, do you? Do you object to workmen sending out the lists of employers?—No, we do not mind them sending out the names of the employers and advising their members where strikes are on.

4669. You do not think that the law should interfere with their sending the names of the men who are working during a strike?—Not with their advising generally the names of firms where there are strikes.

4670. Do you object to their sending round to their different lodges or different unions the names of blacklegs, to use a common phrase?—No, we do not object.

4671. Should the law prohibit it?—They can do what they like with regard to their own members, but we think the law should not allow them to circulate the names of non-unionists.

4672. But you circulate the names of men who do not belong to you at all when you send round the names of the men who are on strike?—I do not quite follow your question; they are our workmen.

4673. I understood you to say that you thought it was permissible for the unionists to circulate the names of unionists, but they had no business to circulate the names of non-unionists, and then I say to you—you employers, according to your own account, send the names of men who do not belong to you round to other employers that they may not give such men employment.

4674. (Sir William Lewis.) The Chairman considers that they do not belong to you after they have ceased working and terminated their contracts?—We make no request to our members not to employ them.

4675. (Chairman.) But what is the reason why you send the names? Is it not that they may not be employed?—That is a matter left to each employer's judgment, in fact it is most difficult to control a foreman in a big business.

4676. Would you kindly let us have a copy of your rules?—With respect to that I have called a meeting for Tuesday next of our association, and I am going to bring the matter before that meeting. We had a letter from your Secretary, but I thought I could not take it upon myself to hand in the rules without bringing the matter before the whole association, and that will be dealt with on Tuesday next.

4677. And if they give permission you will send them to us?—Yes.

4678. And will you inform the Secretary if permission is not given?—Yes. I will be instructed at that meeting what to do. (The Rules were subsequently sent in, and extracts therefrom are printed in the Appendices on p. 88.)

4679. I gather from your memorandum that you are entirely opposed to picketing?—Absolutely.

4680. Then you are in favour of the abolition of the qualifying enactment that attending at the house for the purpose of giving or receiving information shall not be deemed watching and besetting?—I wish to have that made illegal.

4681. Therefore, so far from extending the law so as to allow watching and besetting for the purpose of persuasion, on the contrary you wish to make it illegal to watch and beset for the purpose of giving and receiving information?—Yes.

4682. In your memorandum you say (*Vide* p. 362, col. 2, ante) "I have known many instances where even the union men have desired to remain at work when the union's

Mr. M. C. James.

15 Dec. 1904.

Mr. M. C.
James.
15 Dec. 1904.

officials have ordered them out, but they dare not remain, and where non-union men have, out of sheer fear, left their employment," do you consider that it ought to be illegal for delegates to order men out?—I do not know that it is illegal at the present time to do it, but the power is very liable to be wrongly used, and of course there may be bad motives behind it.

4683. The workmen who join the union agree so long as they remain in the union to conform to the instructions that may be given to them by the delegates, and they can refuse to act upon those orders. Do you consider that if a union delegate on that directs the workmen to go, and the workmen, if left to themselves, would prefer to stay, the union delegate has committed any breach of the law?—I could not say that it is a breach of the law as it at present stands.

4684. You see in this inquiry we have specially to ascertain what is illegal or what ought to be illegal; we have not to ascertain what appears to us reasonable or unreasonable, and therefore the question I put to you is—do you think that such conduct of the delegate ought to be illegal?—I think it ought to be illegal.

4685. Then how can the Trade Union be carried on?—Well I think I have given in my notes some information as to how we endeavour to organise our business to avoid stoppages of work.

4686. But I want to know how a union can be carried on if the delegate who has been appointed to give advice to the trade unionists is not to be allowed to do so?—I think it is a most dangerous thing that any man should have such power. Generally speaking delegates have got into that position through taking a very prominent part in the unions and they are generally referred to as agitators and to give them such enormous powers that they can come and order the men about without any order from their Executive Council or the Association generally would be a most dangerous thing.

4687. (Mr. Cohen.) You think that if the Executive ordered the strike such conduct should not be prohibited?—No, of course if the Executive is what its name implies it is the governing body of the union, and my own feeling is that no strike should take place without direct authority from that Executive Council.

4688. And you would not say that such action ought to be punishable or actionable if the Executive ordered the strike?—No, not if the Executive ordered the strike.

4689. What you object to is delegates who have no authority ordering strikes and you think that a dangerous power?—Yes.

4690. (Chairman.) Is there such a thing as a delegate who has no authority? A delegate means a person to whom authority has been delegated?—I have had cases where the district delegate as he is called has taken certain action which has not been upheld by the Executive Council and I have lots of correspondence here which will show you where I appealed to the General Secretary.

4691. But any agent may transgress his authority; you can put those cases aside.

4692. (Sir William Lewis.) But it is surely important to note that delegates do take upon themselves to give instructions to bring out men without having the authority of their General Council?—I have had many cases like that and that is one of our great grievances. These delegates are elected and in order to be popular with the men they get up agitations and they may take the men out. Taking the chief union with which we deal, the Boiler Makers and the Iron Shipbuilders Society I have had frequent cases where I have had to telegraph to the head office in Newcastle to the General Secretary, and the Executive Council sits there every day, and then we get some sort of satisfaction.

4693. (Mr. Cohen.) You refer to that on page 3 of your *precis*, the last paragraph but one (*Vide p. 264, col. 2, ante*): "It is not so much what the intentions of the leaders of the trade unions are but what the rank and file would do under such circumstances. I have known several cases where the men declined to return to work although ordered to do so by the Executive Council of their Union, and I have also known them to decline to return, although the terms of settlement had been agreed upon between their representatives and the Employers'

Association. I have also known many instances where, with difficulty, a trade union has under present circumstances induced their members not to break their legal contracts and engagements." That describes what you have been foreshadowing just now in answer?—Yes.

4694. (Chairman.) If a delegate acts without the authority of the union, of course the union is not in any way responsible. Do you agree to that?—That is a matter of law.

4695. A delegate who acts beyond his authority does not commit the union in any way?—He may not commit the union, but, in the meantime, he may do incalculable harm.

4696. Therefore he is an unauthorised man, like myself for instance, who goes to a man and says, "You must do so and so."

4697. (Sir William Lewis.) He may do irreparable mischief, and you do not know whether he is authorised or not until you can ascertain from the head office?—Certainly.

4698. (Chairman.) He may do irreparable mischief, and so may I if I go down and give bad advice to the workmen, but if the advice I give to them is not to break the law who is responsible? Have I done anything illegal in that?—I took it that the evidence was not to be so much on questions of law as on questions of facts and customs and working rules. These are very subtle points of law that you are putting to me now, and I think it is hardly fair to ask me to reply to them.

4699. Shall I be wrong if I ask you whether you approve of the Taff Vale decision?—I absolutely approve of it, and I would say that since that decision has been given, in my experience the district and other delegates and trade union officials have acted with much more caution.

4700. You think it has been a useful decision?—Yes.

4701. (Mr. Cohen.) You also add in your *precis*, as Sir William Lewis has pointed out, that if that were not the law trade unions might be encouraged to direct or further breaches of contract?—Yes.

4702. That is what you mean by saying, "There would be no restraint if the clause to which I refer was passed"?—Yes.

4703. (Sir William Lewis.) That is to say, if the trade union funds were not liable?—Yes; they would simply be free to do as they liked without fear of the consequences of their actions.

4704. (Chairman.) You say on page 3 of your *precis* (*Vide p. 264, col. 2, ante*) "While we do not object to employ union men, nor object to deal with trade unions, we are of opinion that employers should not be hampered in exercising their inviolable rights as free subjects of a free country, to establish contractual relations with any workmen whether or not they belong to a trade union"; do you consider that a workman, as a free subject of a free country, has as good a right to decline to serve an employer as an employer has to engage that workman?—It is a matter of both ideas having equal freedom.

4705. An employer can say to himself: "I will only employ unionists," or "I will employ unionists and non-unionists alike." If he has that right why should the workman not have an equal right to say: "I will not work with the non-unionists"?—In effect the employer has the right taken away from him by the action of the men; say, for instance, that we have non-union joiners in the place and that the blacksmiths and all the other trades are unionists, these union men say: "We will not come to the place at all because the joiners are non-union men."

4706. And in the same way does not the employer, or may not the employer deprive workmen of employment in the same sense? If the employer says: "I will not employ unionists," unionists will not get employment from that employer?—Certainly not.

4707. (Sir William Lewis.) Do you know any single instance where an employer declines to employ unionists?—I am not aware of any in our district.

4708. (Chairman.) Have you not known thousands of instances where it used to be done and is not the only reason now why it is not done that they are afraid to do it?—In cases of large unions one is compelled to employ union men.

4709. (*Sir William Lewis.*) You have not understood the question of the Chairman. He says that in the past employers used to decline to employ unionists and that the reason they do not do so now is that they are afraid of the union, is that your experience?—That is not my experience. My experience is limited to shipbuilding and ship repairing, and it has not been so in that line because since I was a boy in 1870 when I went to the business there have always been unionists in both the ship yards and the docks.

4710. Have you any trouble at all as to unionists declining to work with non-unionists?—We have had among our men.

4711. Recently?—Yes, we had in our own works last year a strike of engineers; the men would not work overtime, and we put our apprentices on to work overtime and the engineers went out. After they went out we got other men to come in, non-union men amongst them.

4712. Did they go out without giving notice?—There was no notice whatever; they simply walked out of the place.

4713. Was it incumbent upon them to give notice? It may be that the custom was that no notice was required?—In this particular instance there should have been one day's notice.

4714. And they did not give that day's notice?—They gave no notice whatever and we got non-union men in. Eventually we settled with the engineers who came back to work, and I had a case where they threatened one of the men who had come in during the strike.

4715. (*Chairman.*) I suppose it would be true to say that until the Taff Vale case rendering trade union funds liable, as a rule, workmen did not hesitate to break their contracts in case of any difficulty?—No; on the least provocation they have broken their contracts.

4716. They knew they never would be sued personally and that the trade union funds were not liable?—I have many cases here.

4717. (*Sir William Lewis.*) What particular cases do you refer to there?—As I have pointed out in my notes we are in a very helpless position with regard to ship repairing because ships have to be done quickly, and to take up their charters, so that in nearly every ship-repairing contract we are limited to time under heavy penalties. The men know this well enough and they perhaps cut a plate off the ship or cut a hole in a boiler and then raise some quibble over the point.

4718. (*Chairman.*) Do you say "cut a hole"?—Yes; supposing they are repairing a boiler they may take off one plate and then raise the question of price. Nearly all our work is done on piece, the price being arranged between the Employers' Association and the Men's Association, or between the firms and that association, and in times of pressure the men are apt to make these demands, and of course if they go out and leave the ship with one or two plates off the bottom, or the boiler with part of it out the ship is helpless.

4719. (*Sir William Lewis.*) Without any notice?—Yes.

4720. (*Mr. Cohen.*) That would be done whether there were trade unions or not; you do not mean to say that that is more frequently the case on account of there being trade unions, do you?—In many cases these are the orders of the trade unions or the delegate ordering the men out.

4721. (*Sir William Lewis.*) Do you mean to say—because it is a serious matter—that any trade union officials instruct or encourage men to do what you say has been done?—It has been done in some cases.

4722. (*Chairman.*) Do you think the action you have just described, leaving the master shabbily and disgracefully in the lurch, is unlawful. Do you consider that should be unlawful?—I should say that when it is done as a breach of contract in most cases—

4723. But my question assumes that there is no breach of contract?—As I point out, we have agreed piece-work prices for the riveting and plating, and the men spring demands upon us in times of pressure and say that there is something abnormal about the case. In such a case we say, "Do not stop work; we will send for our technical

delegate and you send for yours; you go on working and let these two men discuss this thing and they will both report to us, and if we cannot settle it then we will report to our association."

4724. That is perfectly reasonable and I do not attempt for a moment to defend the action of the men, but I ask you—is it, or ought it to be, illegal where there is no breach of contract?

4725. (*Mr. Cohen.*) You see, you could make a contract with the men to remain with you on the condition that they gave six days' notice. Is it your opinion that where you do not think it right or expedient to make such an agreement it ought to be illegal for the men to leave you suddenly if they do not break their contracts?

4726. (*Chairman.*) Supposing it is intermittent work and that therefore six days' notice would be impracticable, would you under those circumstances consider the conduct of the workmen not only unreasonable but unlawful?—I would not say unlawful; it is certainly unreasonable.

4727. (*Sir William Lewis.*) Would it not be unreasonable if they do it without giving you fair notice?—Without fair notice.

4728. When you enter into these bargains with the men, do you enter into a bargain that the men shall complete a certain work, and if they break away without completing it that is a breach of contract?

4729. (*Chairman.*) Supposing there is no breach of contract?—If there is no breach of contract, then I would not consider it illegal, but in ninety-nine cases out of 100 in our particular trade it is a breach of contract, because there is an implied contract; there is an agreed piece-work list, and at the end of the list it says: "This list shall stand and so many months' notice to be given on either side for a revision or cancellation of this contract," and that is signed on behalf of the society by their secretary, and on behalf of our firm by myself or our secretary.

4730. (*Mr. Cohen.*) You have, therefore, agreements between your society and the trade union of workmen?—Yes.

4731. And it is under agreements of that kind that the workmen are hired and do their work?—Yes; of course they start away on the work and they know the thing is agreed. Many of these acts which I have been objecting to are the direct result of instructions from a trade union, either the Executive Council or the delegate of that union.

4732. (*Sir William Lewis.*) These acts, you say, are breaches of contract?—In some instances; of course it is difficult for us to trace it, but we have every reason to believe, and in some cases there can be no doubt whatever, that they are the outcome of the instructions received from the Executive Council or the district delegate of this trade union, and we say if they do that they should be made responsible for their actions.

4733. (*Chairman.*) So they are?—But they do not want to be, and if you give them the new Act they will not.

4734. You mean this is an argument against any alteration of the Taff Vale decision?—Yes. I should like to add to the notes I gave in on this point. The trade union leaders urge that the law operates unequally between employers and trade unionists in favour of the employers, but I think the law operates really in favour of the unionists as against the employers, and I can give an instance if you will allow me.

4735. (*Mr. Cohen.*) What law do you mean?—For instance, in the event of a breach of law by the employer, the individual workman can sue the employer, and if he is successful in getting the verdict he is able to get his damages, but if an employer has to sue the individual workman it does not always happen that he will get his damages even if they are awarded. On the one hand there is a responsible firm, and on the other hand an individual who, as likely as not, has no means. Then, again, the employers organisations, such as ours, employ officials just as they do; we have a secretary, we have delegates, and we have an Executive Committee, and if any of the officials of our association do wrongful acts in connection with a dispute I suppose they would commit our association, and in that case our association could be sued by the individual workman and he would be backed up by the enormous funds of his union.

Mr. M. C. James.
15 Dec. 1904

Mr. M. G. James.
15 Dec. 1904.
4736. All that is a very strong argument in favour of the Taff Vale decision?—Yes. A great point has been made by the trade union leaders against this, but the workman has two strings to his bow, and if we discharge a workman in breach of contract, if it is done at the instance of our association, I suppose the man could either sue the association or the individual firm.

4737. (Sir William Lewis.) Have you had any difficulty since the Taff Vale case in getting unionists to work with non-unionists? Has it made any difference with respect to that?—No, I could not say that it has made any difference in that respect.

4738. Have you had any difficulty?—We have had no difficulty; in the last two years, with the exception of one strike of the engineers, we have had a very peaceful time.

4739. Are your men principally unionists?—Yes, there are very few non-unionists in the ship-repairing trade. There is a case I should like to put in to show the power of the union where we had a ship to repair, and we had to make repairs to her boiler, and the boiler-makers refused to work on it because this ship had been built by a firm that the society had decided to boycott because they employed iron workers who were not members of the union. I will put in the monthly report of the society ordering the workmen not to touch any job belonging to that firm, or to work on any vessel built by them, wherever such vessel is found. We lost the work, as the men would not do it because the ship was built by that particular firm. The passage I have just referred to in the monthly report is as follows:—

“Messrs. Short Brothers and the Strand Slipway Company, Sunderland.

As these firms have displayed hostile feeling against this society we ask all our members to show their independence of them by keeping away from their works, also not to touch any job belonging to them, or work on any vessel that may be built by them wherever such vessel is found. If any of our members are working for either of these firms when this monthly report is issued they are not to leave their employment without completing their contract if they have any, or, if day work, they must not leave without giving legal notice as required by the firm. Similarly, in all cases where our members are required to work on vessels hereafter built by these firms, legal notice should be given before they leave their employment so that no breach of any legal contract may arise. We will give the names of vessels in future monthlies.

No branch can be allowed to admit any man as a member coming from Sunderland without first getting sanction from this office; and young men who may work in the yards before mentioned, or any lads who may serve their time in these yards are not eligible to enter this society.

Names of Vessels.

1st. “Saxon Prince”—Prince Line, Knott (Newcastle-on-Tyne).

2nd. “Nedeness”—Mr. C. T. Boe (Arundal), owner.

3rd. “Sebriana”—British Maritime Trust, Ltd. (London), Sir E. T. Gourley, M.P., director.

4th. “Winkfield”—Belonging to the Seafield Steam Shipping Company (London).

5th. “Brenda”—Owned by the Brenda Steamship Co. (London).

4740. (Chairman.) In the case of *Allen v. Flood*, which was a case against an individual but in other respects like the one you have mentioned, it was held that the action was permissible?—It was not directed against us so much as the firm who had built the ship; and

they give the list of ships built by this firm in that order there and they forbid their members to work on those ships wherever they may be; whenever they come to need repairs, no member of the Boiler Makers’ and Iron Ship Builders’ Society may work upon them. One of these ships happens to come to our dock and the men do not work upon it. I have put in the deliberate order from the Executive Council of the Union to that effect.

4741. Have you anything else you would like to say?—No. I have a large correspondence here with the Boiler Makers’ Society, showing that the men did not return to work, although absolutely ordered to do so by the Society; and if you wanted proof of that statement I have it.

4742. (Mr. Cohen.) It merely illustrates, does it not, what you say in your *precis*, and which I read to you before, and there were many instances of it?—Yes, I have cases here to back up that statement in my *precis*.

4743. (Chairman.) These cases only show that the trade union has not absolute power over these men; they may give the order but the men may dispute it?—Yes. I have an order here from the General Secretary, saying that the men must resume work, and they did not resume work. One other point I may be permitted to make; I refer to what might happen in our business in a case of national crisis. Take the time of the Boer War, when vessels had to be fitted up very rapidly for national purposes, in the case of one of our members—

4744. It may be that specially bad consequences might arise from that, but do you infer from that that the action of the men ought to be made illegal although it is not illegal now?—This was a case of fitting a ship up to carry horses to the Cape during the time of the Boer War, and the carpenters and joiners were working together. Suddenly the carpenters objected to work with the joiners and the joiners and carpenters after a lot of meetings decided that they would work half and half, half carpenter and half joiner. Then they had another meeting and the carpenters said, “If you do not take all your joiners off we will go away.” Eventually they went on strike and then the joiners had to do the work.

4745. (Sir William Lewis.) Do they go on strike without giving notice?—Without giving notice. These are squabbles between two classes of men and meantime the ships are held up.

4746. (Chairman.) If there is a breach of contract the whole case falls to the ground; it is of course, illegal; but if there is no breach of contract, you would make it unlawful? That is to say, supposing there is an unreasonable squabble between the carpenters and joiners and there is very great public mischief on account of the delay, would you on that account make the persons who so squabbled liable to an action?—If the result of that action is to cause loss.

4747. (Sir William Lewis.) Would you make it illegal and therefore punishable for people to act in that way? That is the Chairman’s question?—If there were breach of contract I would.

4748. You appear in the North to have a good many cases (from evidence we have received before and from what you have told us to-day) of disputes between different sections of workmen who are engaged for the same employer?—Yes, a great many—most of these I have here are cases of that sort.

4749. And in many cases I understand you they defy not only the requests of the employers, but the instructions of their own trade unions?—Yes.

Mr. JAMES ALBERT HADDEN called and examined.

Mr. James Albert Hadden.
15 Dec. 1904.
4750. (Chairman.) You are a solicitor in Aberdeen?—Yes.

4751. And you are Secretary of the United Kingdom Granite and Whinstone Quarry Masters’ Association?—That is so.

4752. You have sent in a *precis* of the evidence you are prepared to give. Will you allow us to make use of it?—Most certainly. It is as follows:—

I have been secretary of the Association since its formation in the year 1896. The Association comprises among its members the principal quarry owners in the United

Kingdom. Although for local reasons some of the quarry owners are not members of the Association, the Association has had the support of almost every quarry owner in the United Kingdom in any general question affecting the interests of the quarrying industry.

The provisions of the Bills introduced into Parliament (*Vide Appendices, pp. 7 and 8*) for the purpose of legalising the peaceful conduct of trade disputes, and of altering the law affecting the liability of trade union funds (copies of which Bills have been submitted to me), have not been formally considered by my Association, but I have from time to time been made conversant with

the views of the members on the question dealt with, and am in a position therefore to voice the opinion of the Association as a body.

The proposals contained in the Bills may, I think, be summarised as follows, viz. :—

(1). That where an act is done in furtherance of a trade dispute, the person doing the act shall not be liable to an action on the ground that he interfered with the establishment of contractual relations between other persons.

(2). That an action shall not be brought against any person representing a trade union for any act done in contemplation of a trade dispute.

Such provisions are in effect proposals to abolish the law of conspiracy in the case of trade disputes, and to exonerate trade unions from any liability for the acts of its members.

In my opinion, and I am sure I voice the opinion of my association, no alteration of the existing laws affecting trade unions in labour disputes (as these are presently defined either by Act of Parliament or authoritative decision) is called for on the lines of the proposed Bills. Indeed some members of my Association have written to me that they think it desirable to have some further power to prevent intimidation during strikes. I have frequently heard complaints from members of my Association and the managers of their quarries of the annoyance which they and their wives and families have been subjected to, and the terror and alarm which have been occasioned to them by the conduct of the men on strike.

My Association has all along maintained the position of absolute freedom of employment. Over and over again, when strikes have been threatened in consequence of some employer having refused to dismiss non-union men, this Association has declined to do so, and declared in the most emphatic terms that such an attempt to interfere with the liberty of the subject is a state of matters which the Association would not tolerate. Among others I may cite the following instances taken from the minutes of meetings of my Association, viz. :—

On 10th December, 1897, at a meeting of my Association held in London :—

“Mr. Newall, Dalbeattie Granite Quarries, reported to the meeting that his firm had received a demand from the Settmakers' Union, that they employ no workmen but those belonging to that union, and it was resolved that the Secretary of this Association inform the Secretary of the Settmakers' Union, that in the event of its being insisted on, this Association will support Messrs. Newall in their resistance of the demand.”

Again on 24th May, 1898, at a meeting held in Edinburgh :—

“Mr. Street explained what had taken place at his quarry, at Lucknow, and the following resolution was unanimously approved, viz. :—Having come to the knowledge of this association that Mr. Street, in his quarry at Lucknow, has been called upon by union men to dismiss those not belonging to the union, it is resolved that such interference with the liberty of the subject cannot be tolerated by this association, and the action of any men taking part in such demand will be resisted by their association.”

Again at a meeting held at Carlisle, on 14th September, 1898 :—

“Mr. Gardner read the correspondence which had taken place between him and the Secretary of the Settmakers' Union, regarding the withdrawal by the Men's Union of a number of settmakers from Messrs. Gardner & Company's quarries at Bonawe. It appeared from the correspondence that the dispute arose over an employee named Alexander Campbell, who did not conform to the meal hour which the Settmakers' Union desired to enforce, and as his employers declined to dismiss him, the rest of the men employed in the quarries were withdrawn by the union.”

My Association, it will at once be seen, maintains the principle that every workman should be at liberty to enter or decline to enter a trade union. He should be free to act as he pleases in that respect, and if he elects not to enter a trade union he is entitled to be protected from interference on the part of his fellow men. On that point the following resolution was adopted by my Association at a meeting held at Newcastle on 1st April, 1902, viz. :—

“That so far as the Rules of the Settmakers'

Union refer to the management thereof, this Association takes no cognizance whatever, but where they deal in any way with anything affecting the management of the quarries, the Association emphatically protests against any attempted interference.”

I take it that as the law presently stands, a trade union is quite at liberty to advise workpeople to strike, or even to use peaceful and proper influence with them, within certain limits, to induce them to join in a strike, but it must go no farther than this. Perhaps my meaning will become more apparent from what follows. I do not think it desirable in the interests of law and order, and apart altogether from the interests of the employers in the interests of non-union workmen themselves, that the law of conspiracy should in any way be modified or restricted. The law as laid down in *Lyons v. Wilkins* has, I consider, done much to restrain intimidation which previously took place under the cloak of “obtaining or communicating information.” As I have indicated, I do not understand that as the law presently stands there is any objection to “peacefully obtaining or communicating information,” provided it is done in such a way and in such a place as not to be a nuisance to a former employer, or his workmen, or the public. For instance, there is nothing to prevent workmen disseminating their views by argument in a public meeting held otherwise than “at or near the house or place where a person resides, or works, or carries on business, or happens to be, etc.,” because it then would be done in such a way and at such a place as could cause no menace to either employer or fellow workmen. A person is then free to attend the meeting or not, just as he pleases. For that reason it is extremely undesirable that any amendment of the law should take place legalising the disseminating of views in any place where the doing of it is calculated to become a nuisance or to be otherwise detrimental to the interests of either employers, workmen, or the public. Particularly is this the case in the quarrying trade. Quarries are invariably located in isolated districts; at least as a rule they are situated at some distance from a town or populous place. There is consequently not the same police protection, and strikers can molest or annoy those who do not agree with them without any great risk of detection. Of course it may be said that if they go beyond what the law allows them to do, they can be punished, but the difficulty is to bring the offence home to them. The prevention of crime is better than detection. The same remarks apply, but with greater force, to the provision, “for the purpose of peacefully persuading any person to work or abstain from working.” Holding as I do that every workman is entitled to work for whom and on such terms as he pleases, he is entitled to be protected from any attempt at argument or even peaceful persuasion on the part of members of a trade union. That protection can never be accorded to him if “peacefully persuading any person to work or to abstain from working” were to be legalised.

Such being my views it is only fair that a trade union and its funds should be liable for its acts and the acts of its officials. At common law an employer is liable to his workmen for the employer's personal fault. By the Employers' Liability Act the employer is also liable not merely for his own fault but for his foreman's fault. By the Workmen's Compensation Act an employer is further liable where neither he nor his foreman was in fault. To establish such a position of affairs as the Bills now before Parliament propose to do is, in my opinion, grossly unequal and unfair.

The decision in the Taff Vale case seems to be in accordance with reason and equity. In my opinion the judgment has had a wholesome effect in restraining trade unions from violence and intimidation during the dependence of a strike. The liability to be sued and the right to sue naturally go together, and in a suitable case I presume any trade union could take advantage of the decision for the purpose of suing an employer or combination of employers.

Strikes are always prejudicial to the interests of employers. They tend to disorganise business, and therefore mean considerable loss. Any legislation tending to relax the restrictions in the conduct of strikes has a tendency to encourage strikes, and is therefore to be discouraged.

4753. With regard to your association, have you got a copy of the rules with you?—I have sent them in to the Secretary.

Mr. James
Albert
Hadden.

15 Dec. 1904.

Mr. James
Albert
Hadden.

15 Dec. 1904.

4754. These rules are entirely, as far as I can understand, general and technical, with the exception of the last?—Rule 15.

4755. "In view of the fact that the want of apprentices is recognised in the trade, every employer shall put on at least one apprentice for every five sett makers employed by him, the period of apprenticeship to be three years"?—Yes.

4756. If the masters are at liberty to make such a rule as that I suppose you would concede also to the workmen to make an opposite rule to that, namely, a rule that no more apprentices shall be introduced?—I may explain with regard to that rule that although it reads in the way you have put it, the intention was more of a recommendation than anything else, and since this rule was framed in 1896 several conferences have taken place between the masters and the men upon this particular point and they ultimately came to an arrangement whereby they fixed a certain number of apprentices, so that this really may almost be eliminated now.

4757. Supposing there was no agreement, would you think it unlawful for the trade union to pass a rule which should prohibit trade unionists from working on any establishment where more than a certain number or proportion of apprentices was taken on?—I do not think any trade union has the right to dictate the number of apprentices.

4758. If a single workman asks for anything—suppose he says, "I will not stay on unless you raise my wages from 23s. to 25s.," is he not attempting to dictate to his master?—He is quite entitled to say, "I will not work."

4759. Then why may not a trade union do the same and say, "We will refuse to work where there are more apprentices than a certain number"?—There is no objection to their saying that.

4760. With regard to picketing, do you desire to see it altogether abolished?—I think it would be better if it was abolished altogether.

4761. Are you familiar with the Act?—Yes, I have gone over the Act several times.

4762. When you say it should be prohibited altogether you know that means abolishing the last proviso in the section?—Yes, I quite recognise that, but I think there would be no harm even if the whole proviso was abolished.

4763. Do you think it should be illegal on the part of the trade union to strike, if any man is employed extra hours in case of necessity, we will say?—I think it would be very unreasonable for them to strike on that ground.

4764. Unreasonable, yes, but illegal?—I can hardly go the length of saying that I think it would be illegal.

Mr. DAVID FRENCH called and examined.

Mr. David
French.

15 Dec. 1904.

4777. (Chairman.) You belong to the firm of Messrs. Wragg and Company, stone masons, King's Heath, Birmingham?—Yes.

4778. You will allow us to use your *précis* of evidence?—Yes. It is as follows:—

It will be a very bad day for business men and employers of labour if ever these so-called Trade Disputes Bills, which have been sent to me (*Vide Appendices, pp. 7 and 8*) become law. We should not have been in existence now as master men if these had been law, as the following will show. I was in the employ of J. Shilletoe & Son, nineteen years. I was foreman about fourteen years for him; amongst some of the work I have been connected with is the alteration of the old Law Courts, Westminster, and the first block of Admiralty Buildings. I thought I should like to start for myself and started with my partner, W. Wragg, in May, 1898.

Trade being extremely good, men could not be got. Mr. Harvey Gibbs, of King's Heath, builder, asked us to undertake to do the stonework in connection with the extension of the parish church (£1,000 worth of stonework). We hesitated, because we were busy, and were afraid of being unable to get men, but eventually we accepted the contract. Then our trouble began; we could not get men; some we had were not worth half the wages paid. We were threatened with actions, because we could not satisfy the demands of our clients. My partner and myself took upon ourselves to work after 5 p.m., when all our masons

4765. And the same as to refusal to work with non-unionists?—I do not say it is illegal.

4766. (Mr. Cohen.) And you would not make it illegal?—I do not know that I would be quite prepared to go that length.

4767. (Chairman.) The Taff Vale case you approve of, I understand?—Yes.

4768. You think the trade unions ought to be answerable with their funds for any action of their agents?—I think so; the masters' union would be in the same position if they did anything.

4769. (Mr. Cohen.) Do you think that picketing by not more than two persons for the purpose of peaceful persuasion ought to be made illegal?—I quite think it should be made illegal to picket by even two.

4770. You think they might intimidate; is that your reason?—I think it is provocative of a breach of the peace or calculated to provoke a breach of the peace; that is my view of it.

4771. (Chairman.) Two workmen, I suppose, are always representatives of the whole union?—Yes.

4772. And the man who sees the two workmen sees the whole trade union at their back?—Quite.

4773. (Sir William Lewis.) I understood you to say in answer to the Chairman with respect to apprentices that although it would not be illegal it would be extremely unreasonable to have any interference with the employers as to the number of apprentices that they should engage?—I do not go quite so far as that; the sett making trade in particular to which this rule was applied is rather peculiar because most of the sett makers are piece workmen and the great difficulty that the masters experience is in getting apprentices because the journeymen simply employ their own sons, and they will not teach apprentices. We think it is rather selfish on the part of the men in that respect; they put in their own sons and they will not allow any others to come in.

4774. But that is a stipulation that does interfere with an employer in the conduct of his business?—It does interfere because we have no one to teach them except the men and they refuse to teach them unless they happen to be their own sons.

4775. And you are of opinion from the answer you have just given to Mr. Cohen, that even if the picketing were limited to two it would be very much better to be abolished as it generally leads to threats and intimidation?—That is my view.

4776. (Chairman.) Is there anything else you wish to say?—No, I do not think I have anything to add.

always left off; and for doing what we deemed we had a right to do to further our own interests as employers, the trade union of masons fined us 40s. each, because we would not shut up our yard when others left off.

In vain did we protest against such tyranny. We were placed in this way—we had either to pay, or all our men would leave us, because the society sent up a delegate (David Dobson) to inform the men, unless we paid 2s. 6d. a week, they were to come out on strike—so we were compelled to pay or face ruin. Every Monday morning, as soon as my face was seen, one would advance out from the others and hold out his hand for 2s. 6d., all eyes fixed upon him ready to drop their tools if I refused to pay. So it went on for seven weeks; we were only masters during pay-time on Saturday. Then trade toned down a little, and when I saw how it stood, I took in a third partner, Thomas E. Wragg, and apprenticed two youths, all of us being workers. We were determined to make a stand, so I discharged the collector. They elected another; we discharged him; then they never asked us for more of the fine for 11 months. All this time we were in dread of their coming down upon us. Then we succeeded in obtaining another contract of about £900 (new schools). When we had got stone, and were ready to start it, and the sole contractor wanted some of our stone, the Masons' Society demanded the balance of the 40s., or they would call the men out. As an Englishman I absolutely refused, and on Wednesday, July 25th, 1900, six masons

came out on strike (one would not), because we as masters would not allow them to tyrannise over us any longer. I went and stated my case and asked for protection at the police station, but got no satisfaction. The Trades Council then tried to coerce us; we had a job on for the Birmingham Guardians; the Trades Council sent a deputation, who wilfully perjured themselves to injure us. Then the Federation of Building Trades tried their hands; all trades but bricklayers belonged to that; that saved us, because they sent a deputation of two round to jobs where we were working, to try to persuade the men on these jobs to come out and refuse to work upon the jobs we went on. They did not succeed in their nefarious act, but about this time the law began to be known, and when they knew they were liable they ceased for a time coercing.

We, therefore, pray that such Bills may never become law; so long as Trade Unions know their funds are liable, there is a ray of hope for the little employers. If they gain this we shall soon be wiped out, for when they struck our yard, all men, whether they were union men or not, had to pay £2 10s. fine before they would allow them to work in a society shop or become society men. They have published my name as a "black" throughout England, Scotland, and Wales, and some parts of Ireland, with £2 10s. against me for working for myself. I am sure, if some of the members of Parliament who hold with them had to deal with them they would change their opinions. To my mind, they are the real cause of the deterioration in our trade and tradesmen, and peacefully persuading is entirely out of the question. We had to stop one mason; when the society got to know of it, three officers interviewed him to get all news of us, our men, and our work. One asked questions, the other wrote particulars down.

When we go on jobs now, though we are only indirectly employed by the builder, we are often asked to show our union cards. It is only by telling them the law protects us that we are let off. The present interpretation of the law has been, and is, our salvation. The masters in our land could if they dared, or cared to, tell of some awful cases.

I was foreman over a job at Daybrook, three miles from Nottingham, eight years ago, and they made my employer pay 3s. per week train fare from Nottingham to all the men, and three or four lived within 400 yards of the job. He had to pay or have his job stopped. My experience of trade unions is they are a fraud. They wanted to persuade the Guardians of King's Norton Union to cause us to be sent adrift. We were doing the stonework for the extension, but some knew of our case, and would not listen to their untruths.

Why should men who have preferred to work in a non-society shop, rather than see their wives and children starve, have to pay £2 10s. fine to a society? This should be illegal and be considered an act of felony. Several who have worked for us, when we had to stop them, paid before they could join, and they would cease to work with you if you refused to pay. They demand 2s. 6d. from you as soon as you start work, and perhaps your wives and children have to starve one more day until you can ask for more from your employer.

One man who left us went to Cardiff to work. The society demanded 2s. 6d. from him: he left, and went to London. They again demanded it: he went to Bushey; there again they faced him. Then he went to Manchester, and at Manchester they assailed him. He then found out he was prevented from working anywhere in society shops. He then went to South Africa and he is there now, driven out of England by these trade unions. We do hope that the law may remain as it is, to curb them.

In my opinion, if any of these Bills are passed—and they will go on with such outrageous demands—it would never be safe to estimate for a large job, because we should always be in fear of their tyranny.

Let me illustrate what occurred last year at the Birmingham University. Messrs. Smith and Pitts asked us to quote them for a lot of stonework, to be delivered only when it arrived, and they knew it came from us, and was worked by non-society men. The society would not allow their members to fix it, so the builder sent for me and asked me what could be done, as he wanted it fixed in position. I told him I would do it, if I did it revolver in hand, and I did fix it. I daresay we shall be marked, because I have elected to give evidence, but the thing has got to be faced, and the sooner it is done the better for our land.

4779. You are not a lawyer?—Oh no.

French.

4780. Instead of troubling you with legal questions I will you allow me before I put the questions I wish to put to you just to make a brief statement, so that you will be able to understand the drift of the questions when I do put them. It is very important in this matter to make a distinction between what is unlawful and what is unreasonable; unlawful means that a thing may be either the subject of an action or the subject of a criminal proceeding, and you know what unreasonable means?—Yes.

4781. The question is how unreasonable acts shall be treated; and there are these different ways of treating them. You may say, if you like, that all unreasonable acts in trade shall be unlawful, or you may say that no act merely because it is unreasonable shall be unlawful, or you may say that some unreasonable acts shall be lawful and other unreasonable acts shall be unlawful and in that case, of course, you would have to decide how you selected the unreasonable cases which shall be unlawful, whether they should be mentioned in the Act of Parliament or whether it should be left to the Court to decide in each case. You understand what I have said?—Yes.

4782. In your paper here you mention certain acts of trade unions which you evidently consider are unreasonable and I wish to learn from you which of those acts, if any, you think ought to be considered unlawful. I will enumerate them to you: 1st, enforcing by strike that uniform wages should be paid to everybody whether he is worth the money or not; 2nd, calling on workmen to go away at five o'clock; 3rd, striking against a master who has not closed at five; 4th, compelling a master to pay journey money to men who have never been a journey; 5th, compelling a master to pay arrears of fines which the Union have placed upon non-unionists; 6th, refusing to work for a contractor any stone which you, the employer, had supplied; 7th, sending a deputation round to prevent an employer getting labour; 8th, issuing black lists; and 9th, compelling you, the employer, to use union labour only. All those I extract from your paper and you think them unreasonable: do you say that all of them should be unlawful?—With the exception of one; there was one item you mentioned there that we might term unreasonable, that is compelling the union men not to fix a stone that is worked by non-union men, it may be unlawful but that is the mildest possible way in which we could put it—unreasonable.

4783. And all the other matters I have mentioned you would make unlawful?—Each of them.

4784. So as to give an action against the workmen who do it or against the trade union if they induce the workmen to do it?—Yes, to protect the little employers especially.

4785. You say in your paper that the law is your salvation, and I wish to ascertain from you what exactly is the law which you consider to be your salvation, and I will describe to you the different kinds of law which may somewhat give you assistance. First of all there is the Taff Vale case which decides that where the agents of a trade union have done an unlawful act but within the scope of the authority the union funds shall be liable. The second is the case of *Quinn v. Leatham* which makes it an action of conspiracy to agree together to interfere with a workman; that is the second protection you may have. The third protection is the Act of Parliament with regard to picketing, which is explained by *Lyons v. Wilkins* to prohibit all picketing except for the particular purpose of giving and receiving information; that is the criminal law; *Taff Vale* is the civil law, and *Quinn v. Leatham* again is the civil law. I wish to know when you say that the law is your salvation which of these things you mean—the criminal remedy or the civil remedy?—I mean the civil remedy—that the funds of the trade union are held responsible for the acts of the various members belonging to that trade union.

4786. You have followed what I have said?—Yes, perfectly clearly.

4787. Are you wishful that picketing should be prohibited altogether?—Prohibited altogether.

Mr. David French.
15 Dec. 1904.

4788. You understand that means repealing a certain section in the Act of Parliament, and that it would require a new law to make it absolutely unlawful?—Yes. A man has a perfect right to please himself, and I thoroughly believe to-day that there are thousands belonging to the union who would not belong to it but they are practically compelled.

4789. You said somewhere in your paper that you went and stated your case and asked for protection at the police station, but got no satisfaction; have you reason to complain of the police?—I went down to the police station to ask them for protection; this was in 1899 before the decision of the various courts was given, and the clerk to the magistrates at King's Heath said that he could not help me at all in the matter.

4790. (Mr. Cohen.) Protection against what?—Picketing. I wanted some kind of support whereby when they came to picket the yard I could be protected by the police, because there was one of our members who would not go out on strike; he stayed at work, and I wanted to protect him as much as I wanted to protect myself. That man has been working with us ever since.

4791. (Chairman.) *Lyons v. Wilkins*, a case you do not know of, had been decided before that, which declared that picketing, except for the purpose of receiving and communicating information, was unlawful?—It had not come to my knowledge.

4792. I am afraid the policeman did not know it either?—It was the magistrates' clerk at King's Heath that I asked the question of. There is just one thing that I should like to add. Of course I have got all these items here, but I was not quite aware that the evidence would be printed, otherwise I might have supplemented it. There is just one rule I should like to call your attention to. The Masons' Society interferes with members that do

not belong to their society; for instance, at the present time and for some years they have prohibited men coming to work for us at our yard. Two years ago we were so busy we did not know what to do and we were working from six o'clock in the morning to ten and eleven o'clock at night, and there were plenty of men walking about the district practically starving for the want of work, but this union would not allow them to work for us because it was a non-union yard. This is the rule—it is No. 109—of the Operative Masons' Society, if you would not mind my reading it: "Before any individual after working in opposition" (that is, working in any particular shop that is non-society and that has been struck) "be admitted he shall pay an entrance fee of 50s., and should he again work in opposition before being admitted he shall for each and every offence pay an additional 20s. which shall be paid at not less than 2s. 6d. per week, the full amount to be paid within twenty weeks in the first instance, twenty-eight weeks in the second instance and so on in proportion from the date of his first payment, or forfeit the amount paid, but should the candidate be thrown out of employment or sickness intervene the time to be deducted providing a written notice is forwarded to [the secretary. These restrictions as to entrance money and the payment thereof apply to candidates for membership who have violated the foregoing rules while non-members." So that you see any man is prohibited from coming to work for us even if he never belonged to the union, because if he works for us and goes into the union afterwards they make him pay 50s.

4793. Do you consider that ought to be made unlawful?—It ought to be made unlawful; it is not just.

4794. You have told us that you consider striking against non-unionists should be unlawful?—Yes;

TWENTY-SIXTH DAY.

Wednesday, 21st December, 1904.

PRESENT:

The Right Hon. ANDREW GRAHAM MURRAY, K.C., M.P., Secretary for Scotland (*in the Chair*):

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.G.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary*):

Sir CHARLES JOHN OWENS called and examined.

Sir Charles John Owens.
21 Dec. 1904.

4795. (Chairman.) You have been General Manager of the London and South Western Railway Company for the past seven years, I think?—I have.

4796. And prior to that, I think you were for many years Chief Goods Manager of the same Company?—Yes, and in that capacity, of course, I was in very close connection with the staff of various grades, and I may say that throughout the whole of my official life I have made it my business to be on intimate terms with, and to study the wants and desires and necessities of the staff so far as I have been able to do so, so that I should be thoroughly acquainted with them.

4797. I think you have also been asked by the Council of the Railway Association, who represent the whole of the principal railways in the United Kingdom, to come and give evidence on their behalf before this Commission?—Yes, I have been asked to do so in conjunction with my friend, Mr. Beale, the solicitor to the Midland Railway Company, and perhaps I might just mention, to show the importance of the railway industry, which I know will be present in your own minds, that the capital

represented is £1,245,000,000, and the number of employees roughly 600,000.

4798. I am glad to be able to ask you this question: it is the case, is it not, that, generally speaking, the railway companies are on very good terms with their employees?—Yes, I can say so with a deal of assurance, and I do not suppose that in any industry a more loyal staff of men could be found. As a general rule, they are animated by *esprit de corps*, and a desire for the distinction and the good working of their companies, and throughout there is a good feeling between the men, and not only their immediate superiors, but the chief officers and Board.

4799. At present I think there is no particular difficulty in the railway world. I mean there is no agitation at this present moment going on, or strike, among the men?—No; and I think perhaps the best illustration of the good relations existing at the present time is in the fact that, as you know, the Board of Trade has power to intervene in the case of unduly long hours, and the number of complaints made to the Board of Trade is practically infinitesimal.

4800. So that in what you are going to say you are not dealing with the question as from any feeling that the shoe pinches at present, but you are dealing with the question as requested, in order to give us your views as to what would be the effect if certain proposition, became law?—Exactly, on the broad question of principles as you say, and not as regards our own particular position at the present moment.

4801. You were asked, of course, particularly to direct your attention to the Bills (*Vide Appendices, pp. 7 and 8*) which were recently introduced into Parliament, with the view of saying what, in your judgment, would be the effect if these Bills were part of the law of the land?—That is so.

4802. Would you like to divide your remarks according to the subject of the Bills? Of course there are three branches of the subject, so to speak, treated in the Bills; there is the question of picketing, the question of the liability of trade union funds, and the question of the general law of conspiracy?—Quite so.

4803. And perhaps it would be convenient if you kept your remarks under those three heads?—Yes, I will endeavour to do so.

4804. Which shall we take first—picketing?—If you prefer it, I would take them in the order in which the different matters are dealt with in Bill No. 8, of 1904. (*Vide Appendices, p. 7.*)

4805. That is Mr. Paulton's Bill; take your own order, please?—Then I would deal first with Section No. 1.

4806. That is the picketing section?—Exactly.

4807. What have you got to say about that?—I view with a deal of apprehension the words which appear in the fifth line of that Section No. 1, which authorises the attendance at or near a house or place where a person resides or works or carries on his business. Something more than proximity in this attendance must be intended by that clause, or the words "or near" would not be used.

4808. Might we say something more than immediate proximity?—Something more than immediate proximity, and if it means that the attendance is to be on the premises of a place of business (and that is the only meaning I can attach to it myself) then it at once means the attendance of a number of men whose interests would be directly opposed for the time being to the conduct of the business at that place of business, and it would also appear to me to be a direct violation of the rights of private property.

4809. I think I see your point, and may I put it in this way to bring it out further. One of your objections to the Bill seems to be (apart from the question of picketing itself, as to which we shall hear from you afterwards) that it proceeds on different lines from the law previously because it makes positive enactment allowing certain things to be lawful?—Quite so.

4810. Whereas under the law as it stands, if you remember, the allowance for imparting information is by means of a proviso?—Quite so.

4811. In other words the effect of this section as it stands would be to give an absolute right of presence even upon your own premises, or at least you fancy it would?—That is so. That point I may say is viewed with considerable apprehension by the railway companies generally. I shall mention to you, sir, later, the case of a strike at Southampton Docks, but incidentally I might say that the way this clause appears to my mind is this: In the event of a strike of seamen this clause would give the right to trade union agents or others not only to be at the gate of a Dock, but positively to go into the Dock, and up to the ship's side for the purpose of imparting that information.

4812. And the same thing in a railway yard of course?—The same thing in a railway yard. At the present time of course we retain the right to exclude strangers from those places.

4813. Yes, because, of course, as the law is at present it does not touch in any way questions of rights of excluding people which arise from proprietorship?—Exactly.

4814. I think you have made that point clear to us. You have probably something more to say upon the merits of the proposal, apart from the particular form of positive enactment in which it is contained?—Yes, and there, of

course, I would deal with sub-sections 1 and 2 together, the provision for the purpose of peacefully obtaining or communicating information and for the purpose of peacefully persuading any person to work or abstain from working. Now it seems to me that those proposals are made in ignorance of the conditions which obtain in a trade dispute, and also in direct opposition to all experience. I would like to make this point very strongly if I can. A trade dispute is of necessity cumulative. In its first inception it is only perhaps a slight difference between the master and the employees on some question of hours of labour or of wages. That grows; the excitement intensifies, perhaps it goes on for a long time before the strike is even imminent, but after repeated negotiation, when a strike does come, you may say that the agitation or excitement has reached its culminating point, and it is opposed to one's knowledge of human nature to think that a man could possibly hope peacefully to communicate or peacefully to persuade another to work or to abstain from working at a time of such intense excitement as necessarily accompanies a strike. In saying this I am speaking from direct positive personal experience of what has occurred. The knowledge that most of the men have, at any rate for the time being, the means of living for their wives and families depending upon the issue of the strike, is in itself sufficient to induce such a state of mental excitement as would be opposed to any chance of peaceful communication, particularly in the case of an unwilling listener.

4815. Now to put that point again in a very concrete form, I think your view is this: that inasmuch as those two sub-sections are all governed by the words in the beginning of the section, "in contemplation of or during the continuance of any trade dispute," really they come to be a contradiction in terms according to human experience?—That is really put in a concrete form what I wish to express to you, and also that it is contrary to the immense mass of experience which all those who have studied trade disputes must have. I pass now to Section 2; that is the section which provides that a combination of two or more persons to do any act which would not be illegal if done by one person should not be illegal because it is done by more than one, and I think a very simple illustration of that is that, while it would not be illegal for one man to stand at the door of a would-be worker who was anxious to go to his work, it certainly would be an illegal act or ought to be an illegal act for twenty or fifty men to assemble however peacefully in front of that man's residence and peacefully prevent his ingress or egress. I shall give you later, in dealing with the strike which occurred at Southampton some years ago, some concrete instances of so-called peaceful attending by a combination of persons, more than one, which really had the effect of direct obstruction and interference with the liberty of the subject and preventing would-be workers from carrying on their duties.

4816. Then section 3?—Section 3, of course, provides exceptional treatment for trade unions, entirely different and opposite treatment from that which is afforded to all corporations and companies; for instance, if the servant of a corporation or company, in the course of carrying on his lawful employ, and, however accidentally, does damage of any sort, provided that man is acting as the servant of the company or corporation at the time, that company or corporation is made to the full extent responsible for his misdoing. There is the very simple illustration of a porter at a railway station who may tell an individual to take a certain train and direct him wrongly, the company becomes responsible immediately for damages. A porter closes a door too quickly and pinches a finger—the company is responsible for damages; and generally speaking, I hardly know an exception where a corporation does not become responsible for the action of its servant when acting on its behalf as an agent, and, I think, it is very inimical to general interests that an exception should be made in the case of trade unions.

4817. But I suppose you would be willing to allow for a separation of benefit funds, provided they were really kept separate?—That is a suggestion I was hoping to make to you, but I think, in the event of such separation being made—a separation between the funds for benevolent purposes, and the funds for trade organisation—stringent steps should be taken so that the funds which were allocated for benevolent purposes should be inalienable, that is to say, the union should not be able, at a

Sir Charles
John Owens.
21 Dec. 1904.

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moment of stress or excitement to alienate funds which were ostensibly for charitable or benevolent purposes to use them for trade agitation purposes. With that proviso, I think such a recommendation is one, at any rate, meriting consideration.

4818. Now let us take your concrete experience in the strike at Southampton Docks in 1890 ?—That was, I am happy to say, a short strike, lasting only about three days. It was one with which I was directly interested because I was goods-manager of the South Western Railway at the time, and I went to Southampton repeatedly during those three days in order to assist the dock company to carry on their business.

4819. The docks, at that time, were not the property of the railway company ?—They were not; they were working in conjunction with the railway, and directly connected by railway.

4820. But they were an independent company ?—They were an independent company and separately owned. The strike commenced by the whole of the men who were in permanent employ abstaining from attending at work on a particular Monday morning.

4821. Roughly speaking, what was the cause of the strike—not in detail ?—It was a claim both for shorter hours and for more pay. The company, before the strike, offered certain concessions, but these were not deemed by the representatives of the men to be sufficient, and after a week of protracted negotiation and excitement the strike culminated on a Monday morning in the permanent men failing to put in an appearance for work, but they assembled at the dock gates, and this is the illustration I want to give you so strongly as to the peaceful assembling. The men assembled round the dock gates, and during the first half of the day they offered no violence to anyone, but they were there, a stubborn block of men who would not move—who declined to move for anybody.

4822. Just explain who "anybody" was on that occasion ? The permanent men, you say, had ceased to work ?—Yes.

4823. Who were working ? Was anybody left working ?—Yes, there were about 150 of the permanent men who were anxious to work, and some of them succeeded in getting into the docks, and they and other casual labourers formed a band of men who were carrying on work in the docks. Other men were desirous of joining them, but those other men could not pass this, for the time being, peaceful assemblage of men who were blocking the entrance to the dock. Perhaps the most concrete instance I could give you, a very domestic one, was this : A man was working inside the dock, and his wife, at 12 o'clock in the day, wanted to go into the docks to take his dinner to him ; the men saw what she was doing, and they said, "No, you let him come out, and we will see what we can say to him, but you shall not take his dinner to him in the docks." They said this perfectly peacefully ; and they did not in any way molest the woman except by standing in her way.

4824. They simply would not let her pass ?—That of course naturally led to an increase of excitement, and then, after a time those, who wanted to go into the docks were met with violence. Another action which in its inception was peaceful, which might have had very serious results was this : the docks are connected by railway with the main line of the South Western by lines which cross over the Canute Road.

4825. That is a public thoroughfare ?—Yes. The strikers assembled *en masse* on the line, and they said, "You shall not run engines or trains over these lines between the docks and the railway," and for six hours and a half those men stood there and said, "Run the trains if you like over our bodies, we will not move," and by that so-called peaceable or peaceful action on their part they did for six and a half hours absolutely block any connection by railway between the docks and the railway.

4826. (Mr. Cohen.) Was that on a public thoroughfare ?—That was across a public thoroughfare. At the end of that time the police succeeded in getting the men somewhat clear of the lines and a train was started to go across. When that train was halfway across the road a man jumped on the footplate and endeavoured to dislodge the driver from his position. Fortunately he did not succeed in doing so, but had he done so, as the train was progressing

it would have been entirely out of control and most serious results might have ensued. Three times later the driver of a train endeavoured to cross the road and each time was baulked, and on the fourth attempt some of the strikers seeing what we call a movable stop block lying beside the line on which the train was progressing took that stop block and flung it round in front of the train only about twenty yards from the position the train then occupied, and had it not been for the vigilance of the driver a very serious accident must then have occurred. I may say the one great object which the strikers endeavoured to attain all through was the prevention of food being taken into the docks for the sustenance of the men who were employed there. They made an exception as regards passengers' luggage and they allowed that to go in, but the most rigid search was made by them whenever they got the opportunity to prevent food being got into the docks at all. The final result of that strike was that a large number of men were taken to the police court and charged with obstruction and committed for trial, and when they came before the Winchester Sessions, the Dock Company not being anxious to accentuate the relations between themselves and their men which had become somewhat better, withdrew the charges against all but one man and that man was sentenced to thirteen weeks' imprisonment for obstructing and for violence.

4827. Do you know whether that was under the Act of 1875 ?—I cannot tell you exactly.

4828. (Chairman.) In your *précis* it says it was obstructing and inciting to obstruct the highway ?—Yes, that was it, that amongst other counts ; there were several counts in the indictment, but when the sentence was passed it was given directly on that particular count of obstructing.

4829. (Mr. Cohen.) They were committing a public nuisance ?—They were. I have no wish to trouble you with very lengthy evidence because I wanted to take the opportunity of saying that I have read very carefully the evidence given to you by Sir Andrew Noble, and I felt that if I came into the room and said ditto simply to what he has said I should have conveyed to you all I wish to say now.

4830. (Chairman.) Of course these various proceedings you have been telling us happened at Southampton would have been legal, with the exception of the food, if this Bill had been law ?—That is so. There is one illustration I have omitted to give you that I intended to mention. During the course of the strike endeavours were made to get the sailors to abandon their ships, and for that purpose men endeavoured to get into the docks. We prevented that and then men got into the docks by boat, leaving the shore at some point distant, and they got on to the quay, and in one case in particular when a vessel was just about to start two men stood on the quay side urging the sailors, who had signed their articles and were on board the ship, to abandon it and come out on strike. In order to stop that the assistance of two gunboats was obtained, and they prevented this ingress into the docks by these men in boats. There, again, you see they would have had a right to attend under this Bill in the docks for the purpose of inducing these men or conveying information to them, persuading them not to work.

4831. (Sir Godfrey Lushington.) Looking to the good relations between the railway directors and their men, do you think there is any additional safeguard which ought to be provided against breach of contract by the working men ? At present, of course, breach of contract is actionable ?—I think at the present time we have sufficient protection ; as far as I have known when railway companies have agreed to prosecute their men for breach of contract they have generally secured a conviction.

4832. You told us just now that when the charges were heard at Winchester Sessions or Assizes, the Dock Company withdrew them all except in one case ?—That is so.

4833. Do you think that if employers do like that, that is to say, condone the offences immediately after the end of the strike, they can be surprised or, I was going to say, can complain if the next time there is a strike the men misbehave as before ?—I think the action of the Dock Company was not a wise one.

4834. (Mr. Cohen.) You have spoken about Mr. Paul-ton's Bill ; have you got it before you ?—Yes.

4835. It begins by stating that "it shall be lawful for any person or persons," and so on, "to attend for any of the following purposes," and you have stated your objection to that form?—Yes, I have.

4836. That objection you will find does not apply to Sir Charles Dilke's Bill, because Sir Charles Dilke's Bill has used a different phraseology. His proposal is similar to the enactment in the seventh section of the Conspiracy and Protection of Property Act, 1875, "Attending at or near the house or place where a person resides or works or carries on business, or happens to be, or the approach to such house or place in order peaceably to persuade any person," and so on, "shall not be deemed a watching or besetting." Although the objection you have stated does not apply to that, may I ask, do you object to enacting expressly that attending for the purpose of peaceful persuasion should not be an offence? You object to such an enactment?—I object to any enactment which would authorise attendance upon private premises for the purpose; the same words "at or near" are in this clause as in the other Bill.

4837. Do you object to any enactment which would seem to sanction what really would be a nuisance?—Quite so, and an impediment to the conduct of business.

4838. For instance, in the case you gave us of the strike at Southampton Docks, the men there were evidently committing a most serious public nuisance?—Yes.

4839. And your great objection to picketing, unless I have misunderstood you, is that it generally constitutes a public nuisance and nearly always tends to cause or produce unlawful intimidation?—Yes and must be generally viewed as a menace to the individual.

4840. That would be unlawful intimidation?—Yes.

4841. (*Mr. Sidney Webb.*) You very properly pointed out that the clause in Mr. Paulton's Bill might permit entrance into private premises, and that that was a natural objection?—Yes, that appeared so.

4842. And you said in answer to Mr. Cohen that you strongly objected to authorising in general terms entrance for the purpose of picketing into private premises?—Yes.

4843. Supposing that that clause was so amended as merely to make the act itself not an offence, without giving any right to a person to enter upon private premises, would you still object?—Yes. I should object on the broad ground that it should become an offence on the part of any person who persisted in molesting me with the idea either of giving information or persuading me if I did not want him to do so.

4844. Pardon me, of course it is common ground that attending for the purpose of molesting ought to be an offence, but the point upon which I wish to have your opinion is whether attending merely for the purpose of peacefully persuading in itself ought to be an offence?—I think so, because persistent persuading against one's will amounts, in my mind, to molestation.

4845. Or rather, perhaps, if I might give you a word, you mean it amounts to a nuisance?—To a distinct nuisance and to a molestation of the individual.

4846. The instances you gave—the extremely interesting instances—of the action at Southampton involved a great deal of obstruction of the thoroughfare?—Amongst other things.

4847. And they involved quite obviously what I think in the eye of the law would be a public nuisance as well as a private nuisance to individuals?—Yes, it would probably cover both.

4848. And in so far as they involved obstruction of the thoroughfare, or in so far as they involved nuisance, the police have already ample legal authority, have they not, to deal with them? The question is whether it is necessary to make that action a special offence if it is already an offence under the Highways Act or under the general law of nuisance: do you want to go beyond that? Supposing you could secure that there should be no obstruction of the highway, and that there should be nothing which could be called a nuisance, do you still want to go beyond that and to say peaceful persuasion in itself should be an offence?—I say peaceful persuasion persisted in against the desire of the person to whom the persuasion is addressed becomes in itself an offence against that person.

4849. Then it is rather the note of persistency or doing it against the wish of the person who is being persuaded to which you object?—Very largely so.

4850. There is also, if I may remind you, the point of numbers; you drew attention to the fact that persuasion by fifty people might be objectionable?—Exactly.

4851. Supposing, then, we could get rid of obstruction, and supposing we could get rid of nuisance, and supposing we could get rid of the vague terror implied in a crowd, do you still see an objection to attending, not persistently, for the purpose of peacefully persuading by one or two people?—Yes, and I would illustrate my objection in this way: an instance was brought to my notice yesterday of a man desiring to go to his work, and two men perfectly peaceably sitting on that man's doorstep from daybreak until night, so that that man was afraid to leave his place of residence to go to his work.

4852. Assuming that they were there simply for the purpose of communicating or receiving information, I gather that that is lawful at this moment?—Even if lawful, it is very inadvisable and objectionable.

4853. And you suggest that that should be made unlawful?—Certainly.

4854. And that therefore anything in the nature of picketing, even for the purpose only of communicating or receiving information, should, you think, be made unlawful?—Yes, I would say so, certainly if it interfered with the liberty of a man to decline to listen if he wishes to decline to listen.

4855. To come to a point on which we will, perhaps, have more agreement, with regard to the Taff Vale decision, you pointed out that any reversal of that would be to put a trade union as a corporate body in an exceptional position?—Yes.

4856. And you suggested that all other companies and corporations were liable for damages which they caused by their wrongful acts or by the wrongful acts of their agents?—Exactly.

4857. And you think a trade union as a corporate body ought to be liable for the damages which it causes by the wrongful acts of itself or its agents?—Certainly.

4858. In fact, you wish it put on the same footing as any other corporate body?—In that respect certainly.

4859. Only in that respect?—I have not gone into all its aspects, and I should not like to express a general opinion.

4860. Your argument rather was that it was not reasonable or fair that a trade union should be given any special privileges in any way as compared with any other corporation?—Certainly.

4861. Similarly, I assume, you would not wish it to be under any disabilities. Do you suggest that a trade union should be put under any disabilities as a corporate body, from which a railway company, for instance, is free?—I should object to express a general opinion until I knew exactly the point at issue.

4862. Then you are not prepared to say that you wish a trade union to be treated equally with other corporations?—I am not prepared to state that off-hand until I have considered every point.

4863. Then you do not put it as an argument for continuing its liability that it ought to be treated equally with other bodies?—In that respect I certainly claim it should be treated equally.

4864. That is to say, that a trade union should be liable to the full extent of whatever damage it creates?—Certainly.

4865. Or by its agents creates?—Quite so.

4866. Are other bodies in that position?—Railway companies certainly are.

4867. Do you remember the case of the "Stella"?—That was not a railway company's act strictly; the "Stella" was dealt with entirely under maritime law.

4868. Did not that vessel belong to the London and South Western Railway Company?—Yes.

4869. And in the case of the "Stella," did we not have it brought home to us that a railway company or any other person owning a steamer was not liable for the damage which the wrongful acts of its agents on that steamer might cause beyond a certain limit?—Certainly!

*Sir Charles
John Owens.*
21 Dec. 1904.

Sir Charles John Owens. 4870. Then a railway company owning a steamer is not liable for the full effect of the damage caused?—It was not *qua* railway company that the damage was done; it was the accidental position for the time being of a steamship owner.

4871. On the ground that the owner of a steamship is not liable for the damages which are created by the wrongful acts of its servants beyond a certain limit?—There is a limit.

4872. However great the damage may be?—That is so.

4873. Do you think that a reasonable law?—I hesitate to express an opinion upon such a law as that. It is probably put in for the protection of the smaller owners of vessels.

4874. And yet advantage is naturally taken of it by the larger owners also?—That is always so.

4875. Do you think it might be reasonable to have some protection for one class of owners as distinguished from another class of owners?—No; generally speaking one could say there should be equality before the law.

4876. And similarly, therefore, when you are proposing to continue or to impose a liability on trade unions on the ground of equality before the law you do not exclude, I assume, the consideration of some limit to that?—I certainly exclude any limitation.

4877. Do you exclude any limitation with regard to the ownership of a ship?—Common law has done that.

4878. Pardon me. However, the question is not whether the law has done it or not, but whether it is a proper and advisable course?—I think you can hardly ask me to express an opinion upon maritime law.

4879. At any rate, you see, it would not be correct to say that all persons and corporations are liable for the damages caused by the wrongful acts of their servants?—There is perhaps a limitation as regards steam vessels.

4880. There is certainly a limitation, is there not?—Yes.

4881. And, therefore, if it is proposed that trade unions should be liable for the full extent for the damages which may be caused by the wrongful acts of their servants they are entitled to plead that some limit should be put to it?—I should say not—not on account of the one exception you find.

4882. The point of my question is as to the argument which is so frequently urged that trade unions should be put in the same position as other persons, and I think you are telling me that other persons, in one case at any rate, have a special limitation to their liability?—You have the one case, but I have the nine hundred-and-ninety-nine out of the thousand.

4883. And therefore you cannot urge that trade unions should be put in exactly the same position as other persons?—Not as the one exception, but in the same position as the nine hundred-and-ninety-nine.

4884. To pass to another point, as to the putting of the trade unions in this position of equality before the law; you know that at present a trade union is not allowed to enter into a contract?—No, I will ask you to reserve legal questions for Mr. Beale.

Mr. JAMES SAMUEL BEALE called and examined.

Mr. James Samuel Beale 4898. (*Chairman.*) You have been for forty years solicitor for the Midland Railway Company?—Yes, I have acted for the Midland Company all that time.

4899. You have also acted for the Railway Companies' Association for thirty-two years?—Yes, I have.

4900. In your connection with the Midland I think you have been through two strikes personally?—Two large strikes and some smaller ones.

4901. When were they?—One was in 1878 of the goods' guards, and another in 1887 of the engine drivers. Neither successful, and they did not last many days.

4902. Have you watched other strikes on railways?—I have watched other strikes on railways.

4903. Could you mention any particular ones?—The Cork and Banden was rather a protracted strike; then there

4885. It is not a legal question, but a question of policy as to whether at the present time you are not able to enter into a contract, for instance, with any representatives of the workmen who are a trade union. Now it has been put to us by some witnesses representing the employers that they think it a great advantage to have long contracts with their men; do you concur with that? Do you think it advisable to have long contracts? It is a question of how to avoid the trouble which is caused by the cessation of employment at short notice?—I do not think extremely long contracts between employers and employed are good.

4886. But six months' contracts, or something like that?—No, I should not recommend six months' contracts.

4887. It was put very strongly that in the case of certain industries, amongst which railways were specially mentioned, the consequences of sudden cessation of work were so serious that the proper course was to have contracts for a length of time, and six months or a year was suggested: you do not agree with that?—No, I do not.

4888. May I ask what your contracts are, as a rule, on the railway service—by the week?—By the week.

4889. And a week's notice then is as much as you think it convenient to ask from the men?—It has been found in practice sufficient.

4890. I think you said you agreed with the evidence of Sir Andrew Noble?—Yes.

4891. I think I remember that Sir Andrew Noble was strongly of opinion that trade unions should not be under any disability as compared with other Corporations, you have not considered that point?—I tell you I have not gone into all the various points; I am not able to give an opinion upon that. I have considered the one point as to the liability of the funds.

4892. And you think the trades unions as regards the liability of their funds for damages should be placed under a more unlimited liability than a steamship owner?—They should be placed, as I say, in the same position as nine-tenths of the Corporations of the country are in.

4893. And whilst you think they should be placed in the same position with regard to liability, you are not prepared to say that you think they should be put in the same position with regard to privileges?—I should have to consider the question very broadly before I gave an opinion upon it.

4894. You have considered it with regard to liability?—Yes, because that was the one question that came before me in these Bills.

4895. But you have not considered it with regard to privileges?—No.

4896. But still as a matter of equity you would not propose to put the trade unions in a worse position than the employers?—There again I should have to consider the question in all its aspects before I gave an opinion.

4897. (*Mr. Cohen.*) You do not desire any fresh special legislation for the protection of railway companies?—No. I think I may say broadly that we are satisfied with the legislation as it is.

was another on the North British; then there was the Taff Vale; and there is the recent case of the Lough Swilly and Letterkenny; of course there have been some narrow escapes from strikes besides.

4904. Speaking of railway companies, do you think probably they have less to fear from strikes than other classes of employers?—That is my view, and for the reasons which are set out in my *précis*. First of all, public opinion has a great tendency to follow public convenience, and as railway strikes cause more public inconvenience they create as little sympathy as a strike of the cabmen in London; secondly, railway companies have greater facilities for co-operation between each other, because the control is in the hands of so few general managers; and thirdly, the railway service is a very attractive service to all classes of labour because of its permanence; a man once in a railway company's employment is there until he comes to superannuation age, if his health lasts.

Mr. James
Samuel Bebb.
15 Dec. 1904.

4905. And when he does come to superannuation age there are arrangements made?—Yes, arrangements are made. Some of the companies' arrangements are not so good as one could wish, but we have done more to solve the old age pension question than any other class of labour, and we have been so successful in that department because the benefit funds have been managed by the men themselves. They are managed by the representatives of the men. I do not mean absolutely in the Midland Railway, because there are seventeen elected members and three delegates from the board, who represent the company's contribution. Then again railway labour is not skilled labour in the sense that any class is indispensable to the work. A railway porter must be, all his time, learning signal duties and learning guard's duties, and from the nature of his employment he must keep on learning.

4906. You want one more sentence to make that quite correct, and therefore one of the classes of your servants contemporarily supplant another class?—Yes; and in the way of promotion; and it is not only a case of Midland servants supplanting Midland servants, but they can come from other companies. In that strike of 1887 we had several hundred passed firemen who were competent engine drivers, when they knew the road, coming south from Scotland, where the rate of pay was rather less than on the Midland. They came in hundreds, and it is the same with signalmen. The duty of a signalman is a combination of mechanical appliances and human intelligence, and although it takes a long time to train a first class signalman for a junction with sixty trains an hour going over it, as there may be, thirty in each direction, yet an intelligent man with a very small training would make a safe, slow signalman, he would delay the traffic, but he would not injure the traffic.

4907. How about engine drivers?—I have already pretty well answered that. The passed fireman are a class necessarily waiting for promotion in every railway, and they come from all the other companies to fill the vacant places. Besides, there is a great number of skilled engine-drivers in the world, and our case showed that that was not an indispensable class, because their places were filled in a very few days. Beyond that the protection against a strike, I believe, is in the quality of the service—the quality of the men themselves. I think it is the universal experience that railwaymen are a very superior class of workmen. There is something about the railway service that makes them feel that the safety of others is dependent upon them largely in the running staff, and the degree of intelligence wanted on the road staff all tends to bring out their intelligence, and they are very high-class men. All of them as far as I know, and I know a great deal about many companies, have the very strongest *esprit de corps* and a pride in their own company, and a desire to make their own company's service as efficient as it can possibly be made. So long as we have the union men and the non-union men working side by side, that will be so, and if I come across a man of exceptional intelligence, I find he is always a strong union organiser or he is a strong opponent of the union, a strong free labour man. The men know that the rule is with regard to all their grievances that they can send their own elected representatives to the Board, and that is not the case on the Midland only, but on all companies. They can send them to the general manager, and over the general manager to the Board, and they will have a full and free hearing, and the knowledge they display, and their grip of the questions which they discuss at those meetings, are really exceedingly striking. I have felt it very often, and you can learn from those men, whether they happen to be union men or not, and they are there to do their best for the promotion of the service. Therefore I say that this is not a class of men who are easily led by a few leaders.

4908. As regards the Midland you make no requirement as to your men being unionists or non-unionists?—Not in the least; they are entirely free to join or abstain from joining.

4909. And I suppose so long as the union does not go into coercive measures you have no fault to find with them?—No, I think the organising of the union rather tends to bring out the qualities of the men, just like the railway service itself: it makes better men of them, those who take the most prominent part. These men have their meetings for criticism; at their meetings they criticise very freely, and in the newspaper they publish

they give us the benefit of their criticisms and we can learn from them.

4910. You have been asked to give us your views upon the propositions contained in the Bills (*Vide Appendices, pp. 7 and 8*) which were recently introduced into Parliament?—Yes.

4911. And you have been asked to come here from the Railway Association and of course also to speak from your experience as a solicitor?—Yes.

4912. Those Bills naturally lend themselves to division into various heads of the subjects with which they deal, and perhaps we may take them in that order. As to the legalisation of peaceful picketing, what have you to say?—That is a proposition in each of the Bills that were before Parliament and the terms of the clause seem to imply a general licence to go on to private property for that purpose.

4913. That is the case under Section 1 of Mr. Paulton's Bill (*Vide Appendices, p. 7*)?—Yes.

4914. It is not the case in the other Bill—Sir Charles Dilke's Bill (*Vide Appendices, p. 8*)?—That is so.

4915. You need not say much about a general licence to go upon other people's property?—I think not.

4916. Passing from that point to the question of peaceful persuading, peaceful persuasion being specially legalised as a further exception to the statutory provisions against watching and besetting contained in the Conspiracy and Protection of Property Act, 1875, what have you to say to that?—If it is mere peaceful persuasion I cannot understand why legislation should be required; it seems to me that arguing upwards from the simple case, the simplest case seems to me to be that of a clergyman going to persuade people to adopt his views.

4917. (*Mr. Cohen.*) In *Lyons v. Wilkins* the Court of Appeal, decided that to picket for the purpose of peaceful persuasion would be an offence and that is what took the workmen by surprise and what has given rise to some of the new proposals. The Court of Appeal unless I am mistaken (and the Chairman will correct me if I am wrong) in *Lyons v. Wilkins* decided that the Act of 1875 only allowed attendance for the purpose of obtaining and giving information, and if the attendance was for the purpose of persuading, although peacefully persuading, it was an offence, and the question is whether that law as laid down in *Lyons v. Wilkins* is a proper and just law.

4918. (*Chairman.*) The point Mr. Cohen wants to put to you is this: under the Conspiracy and Protection of Property Act 1875 watching and besetting is made an offence, but to that offence there is a certain exception, namely, that attending for the purpose of merely communicating information is not watching and besetting. What the Court of Appeal decided in *Lyons v. Wilkins* was that attending for the purpose of peacefully persuading in addition to communicating information at once became watching and besetting because it was not within the ground of the exception, and what we want to know from you is what in your view would be the practical effect of enlarging the exception of the Conspiracy Act of 1875 to include peacefully persuading as well as the mere giving of information?—If A or A and B together are to be allowed to address C there must be a corresponding right in C to require A and B to desist; that is what I want to imply—that the peaceful persuasion which is continued against the will of the peaceful persuadee must have the effect of moral intimidation. I perhaps put it too strongly in saying "must," but it is capable of extension within the law to convey intimidation.

4919. (*Sir Godfrey Lushington.*) Will you distinguish, please, between peaceful persuading and watching and besetting a house or place of business with a view to peaceful persuading: is peaceful persuading, by itself, forbidden by the law?—No.

4920. But watching and besetting for any and every purpose is forbidden by the law, subject to the exception as to the purpose of giving or obtaining information. Therefore, I ask you—do you wish that that law should remain as it is. You see, it is one thing, is it not, simply to try to persuade a man, and another to watch and beset his house?—Yes, I have looked upon the power of peaceful persuasion as a legalising of continued peaceful persua-

Mr. James Samuel Beale. sion; if watching and besetting are to be sanctioned, you will have exactly the same effect, thereafter, upon the person who is operated upon.

21 Dec. 1904.

4921. Do you think watching and besetting for the purpose of communicating or obtaining information should continue to be not unlawful? What is the information to be given or received which justifies the exception from the enactment that watching and besetting should be unlawful?—I have not considered that question. As a practical question, I see no objection to a continuance of that law, in the Conspiracy and Protection of Property Act, 1875, now shown to me. I would not interfere with free communication more than was necessary.

4922. (*Mr. Cohen.*) Would you object to adding the words "if merely for peaceful persuasion"?—I think you want to have the application for peaceful persuading once—not repeated. If you are to have repeated peaceful persuasion, I object to it.

4923. (*Sir Godfrey Lushington.*) What about the repetition of asking for information?—The process of giving or receiving information is completed when the information is given or received; it is not a continuing process like persuasion.

4924. (*Chairman.*) May I take the next head, the amendment of the law of conspiracy which is dealt with in the Bills: what have you to say about that?—It is a question of general law; there should be no distinction between trade unions and any other in the law of conspiracy.

4925. In other words, you do not think that trade unions ought to be treated in any different way as regards this from any other people?—That is so.

4926. Leaving the question of the general law of conspiracy to be argued out on its own merits?—That is what I mean.

4927. The third subject is the treatment of trade union funds. What have you to say about that?—If the trade unions elect to separate their benefit funds, I do not think any law would be required really to protect them. If their funds are not available except for benefit purposes, I do not think any alteration of the law would be necessary to protect them. If they are available for the purpose of causing injury, they ought to be available for the purpose of repairing that injury if caused.

4928. There is only one other point, I think, which is dealt with in one of the Bills, and that is making it no longer illegal to induce a person to break a contract provided that inducement is done with the proper view to trade dispute?—As I read that, it is a most elastic provision. It is Clause 1 of the Bill in the name of Sir Charles Dilke, and to my mind it means that that which is contrary to the law shall be lawful if done in connection with a trade dispute. It appears to me that it only wants the proposition to be put clearly to show that it is wrong.

4929. (*Sir Godfrey Lushington.*) At the commencement of your examination by the Chairman, you referred to the strike of the engine drivers in 1887, who left their work without notice?—Yes.

4930. That, of course, was actionable against these particular engine drivers at the time?—Notice was not required in their case, because they said it was a new contract of service which was imposed upon them by the company; the company had given notice of new terms of service and therefore it was a new contract, and their old contracts expired when the new began, so that was their justification for leaving at that particular date. I rather quoted it as an illustration of the force of public opinion going against public inconvenience, because the feeling was against those strikers very much.

4931. You are satisfied that the law as laid down in *Lumley v. Gye*, as interpreted in *Quinn v. Leathem*, namely, that inducing a breach of contract is actionable?—Yes.

4932. You are satisfied with that?—Yes.

4933. And you are satisfied with the Taff Vale judgment, which would make the union funds liable for inducing breach of contract on the part of an agent of a trade union?—Yes.

4934. You are aware that under the Conspiracy and Protection of Property Act, 1875, gas companies and so on are able to prosecute criminally their workmen for breach of contract; do you think that such a power ought to be given to railway companies too?—No.

4935. It is not necessary?—No.

4936. Although I suppose you would consider that it is just as important to the public that your railway should go on running as that the gas works should supply gas?—There is really no similarity between the case of the gas stokers and the servants of a railway. A railway is an individual service, and each has a little separate item in the service to do, and except for a perfectly organised strike of a whole service, it would not do anything like the harm the gas stokers could do.

4937. (*Mr. Cohen.*) You do not desire any further special legislation for the protection of railway companies?—No.

4938. (*Sir Godfrey Lushington.*) On the first page of your *précis* you speak of the advantages which the railway companies have which cause them to fear less the chance of strikers, and one of those advantages is that public opinion is against a railway strike: do you consider public opinion has a great effect on strikes?—A very great effect.

4939. In what way?—I think very largely because it influences funds so very much. You always see accompanying the strike an application for funds in support of the men, and my feeling is, very strongly, that public opinion almost always determines the result of the strike.

4940. And besides it discourages the men from proceeding?—Yes.

4941. Therefore it is not always true, I gather from that, that the object of the strikers is to create the maximum of inconvenience?—No. Human nature being what it is, if a man can get his own way by causing inconvenience, it is a very strong temptation to him to do it.

4942. But as a fact generally the object of strikers is, is it not, to produce as much inconvenience as possible, in order to bring the employers to terms as soon as possible?—In a sense it must be so, because if a business can be carried on independently, the strike only results in the dismissal of the men affected.

4943. I do not know whether you have ever heard of a project of a universal strike?—One has seen it discussed.

4944. A second advantage you name is that railways can co-operate with each other; in what way do they co-operate—by exchanging servants or lending servants?—Yes, they can co-operate in that way, and they can co-operate in the knowledge that a man who strikes on one railway will not find a berth on another. They can also co-operate in carrying the traffic for each other; there is practically no place to be found outside the small villages where there are not at least two routes, if not more, between places; and it is quite lawful, and altogether desirable, that the companies should aid each other. In fact, that is rather necessary, because the natural tendency of their own subordinate servants is to use the misfortunes of the other company to their own benefit.

4945. You do not give money to other companies, do you, to help them in their strikes?—No; the only case where contributions have been made have been where companies have incurred special expenses for common advantage, in cases like the Lough Swilly Letterkenny strike.

4946. You say that if there is a strike on Railway A, Railway B does not employ the strikers?—Would not.

4947. How do they know who the men on strike are?—From the company concerned.

4948. Company A would inform Company B of the names of the strikers?—If they asked for them, but a man applying for railway service must show his own pedigree, where he comes from, and what he has been doing; and he knows perfectly well that if he has left the Midland company on strike, it is no good going to another big railway company for work.

4949. I wish to know whether Company A would spontaneously communicate with Company B saying: "Look out! John Smith and William Jones are on strike from this railway"?—There is no need for it whatever. In the Midland case that I referred to almost all the

men who left the trains on the line, and therefore were excluded from re-engagement, had to go abroad, as they could not get employment here.

4950. Would you think it objectionable for them to send the names, if they thought there was need for them to do it?—It looks like taking a spiteful action against the particular men, and no railway company would think of doing it. That was very well instanced in the case of these men who left in 1887; they all asked for their characters, their discharge papers, and they very much objected to its being stated that they had left on account of a strike. They said it would militate against their getting employment in India, in South America, or Australia, and we modified it. I was called upon to decide how we could tell the truth in the least offensive way to the men, and I put it down that they had declined to accept new conditions of service.

4951. I do not think you can complain after that, when your men strike against you, if you try to screen them from what is only the proper consequence of their own action?—The consequence of their action was that they had to go in and see the Board, and that was quite punishment enough.

4952. The purport of the question that I asked you was whether the circulating of black lists should be permissible at law?—I do not see how you could make any legislation to prevent it if it was desired to be done. How can you prosecute a man for communicating that which is common knowledge to many hundreds of people, and, taking the railway case now, that which is recorded and is common knowledge to many hundreds of people, to anybody else?

4953. By that I suppose you mean the circulation of an announcement that a strike is going on against a railway or against a certain establishment; that is what you mean by the matter being common knowledge?—No, I mean the men who are engaged and who have left on account of the strike.

4954. The fact of the strike would, of course, be the subject of common information, but the names of the men would not be?—Yes, in the railway service. All the persons through whom the pay sheets go would have that knowledge in the Midland service, and how could you by legislation prevent any one of those from communicating that information to anybody else?

4955. If it transpires that that has been so done, possibly an action might be brought against those people to prevent it. You are aware of the cases in the books as to black lists, are you not?—Yes, but I cannot say my knowledge is universal.

4956. You say that during a railway strike against Company A, Company B would, if they knew it, refuse to employ the men on strike?—I did not want to put it that way; I meant during the strike, and probably afterwards, if he left on account of the strike.

4957. You, I suppose, think it absolutely necessary that the employer should have an unfettered discretion as to whom he employs and whom he does not employ?—Certainly.

4958. Therefore, I presume you would be willing to concede the same right to a workman to decide whether he should accept employment or not?—Surely; he has it.

4959. And to decide whether he will work with other persons or not?—Certainly; he can even refuse to work with those he does not like.

4960. (*Mr. Cohen.*) And he may do that in combination, you think?—If they do that in combination then they have to be careful.

4961. (*Sir Godfrey Lushington.*) What do you mean by being careful?—They must do that, as I take it, for some good reason against the man whom they object to.

4962. Have you to give a good reason when you refuse to employ a man?—No. You are putting the case of a man who, being in employment, refuses to work with one or more of his fellow workmen?

4963. I am.—As I understand it, if that is done by previous agreement and with a view to injure master or servant, without a sufficient cause arising out of the nature of the employment, they may get into difficulty.

4964. (*Chairman.*) What you want to get at is something of this sort, that the act of refusing to work with another, when done in combination with others, is an act of, so to speak, neutral construction; it may have a construction?—You have to look at motive then.

4965. It may be a conspiracy to injure and it may be merely, on the other hand, a proper desire to prevent others working with a certain person for a good reason?—Yes.

4966. (*Mr. Cohen.*) And that would depend on the motive?—So it seems to me, a man objecting to work with a man who is reckless or careless has a perfectly good reason.

4967. Do you know that the House of Lords has decided in *Allen v. Flood* that a civil action cannot depend on the question of whether the motive is good or bad?—There must be a cause of action.

4968. But, of course, a criminal offence may depend on the motive, and therefore you say whether a conspiracy is criminal or not may depend on the motive?—Yes.

4969. (*Sir Godfrey Lushington.*) I thought you said that a man must not refuse to work with a view to injure. Is it not true that every strike has that for its object?—I would rather say to put pressure upon; it does not always injure, and the success of the striker may be beneficial for the world.

4970. When people say to you in combination "We refuse to work," I should have said they wished to put the maximum of inconvenience upon you in order to bring you to terms: you agree to that?—Yes.

4971. If you say that the mere desire to injure causes an act otherwise lawful to be unlawful, are you not, in so saying, treating all strikes as illegal?—Is not the distinction this, that the strike is against the employer and the conspiracy to injure would be to injure the fellow workmen?

4972. Not at all necessarily; it might be either. If there is a strike against wages that would necessarily be a strike against the employer, but if it is a strike against non-unionists it would be both; it would be a conspiracy against the employer and a conspiracy against the non-unionists. I put my question in another form which is more in accordance with your language. You say in the middle of page 2 in your *precis* that you have no objection to a trade union, and on the contrary you think it a highly useful institution so long as it remains a purely voluntary one and has no power of enforcing membership, and later on in the next paragraph you say, "It is only when voluntary action ends and compulsion in any form begins that witness would part company with the society and its administration." What power has a union of enforcing membership?—Only that power which is intimidation in one form or another.

4973. I put aside intimidation because that is unlawful. Has it any other power? Supposing there was a rule of the trade union that they would strike against all non-unionists, would you say that that was a form of compulsion or that that was a power of enforcing membership?—I would say that that trade union was doing an injury to the service to which it belonged. I do not consider the railway trade union have any means of enforcing membership, because if that union acquires such power as practically to prevent non-unionists working with it then it is a harmful force and not a beneficial force. I do not say it is an unlawful force.

4974. Do you hold that a weak trade union should be a lawful institution and that a strong trade union should be unlawful?—I do not say it should be unlawful; it is not beneficial to the service. I do not suggest it should be unlawful.

4975. You are merely speaking on the point of expediency?—Of practical value.

4976. Are you prepared to express any opinion upon whether a strike of a union against non-unionists should be permissible?—I do not think you can interfere with the right of workmen to strike; I would not attempt to do so.

Mr. Samuel Beale.
21 Dec. 1904.

Mr. F. R. BENHAM called and examined,

Mr. F. R. Benham. 4977. (Chairman.) Are you chairman of one of the largest pottery manufacturing firms in the Staffordshire district?—Yes.

21 Dec. 1904.

4978. Are you a member of the Staffordshire Potteries Manufacturers' Association?—I am a member and ex-chairman of that association.

4979. During that experience have you been concerned in several strikes?—That is so. The following is a *précis* of the evidence which I am prepared to put in on my own behalf and on behalf of the association which I represent:—

I beg to say that if the Bills (*Vide Appendices, pp. 7 and 8*) referred to became law they would prejudicially affect me in my business, and I will explain why. The Bills refer to *peaceful* picketing. In all my experience I have never known such a thing, and do not believe such a thing exists, or can exist. Whenever we have a strike in the potteries, a reign of terror has always existed, and decent men, who had families to maintain, and who did not wish to strike, have always been coerced by the rougher element among the work-people, especially by the younger unmarried men, who are usually only too willing to remain idle for a time if they can get strike pay from the union. From my own personal knowledge I can say that on more than one occasion no strike would have occurred if it had not been for the action of the professional agitators attached to the unions. In cases in which we have had to prosecute, where outrages and assaults have been committed, to the best of my knowledge the men have always had their defence paid for by the union.

Unfortunately for manufacturers whenever there is a trade dispute the unions usually put forward a man of straw to fight their case, and when they lose it (as they always have done in our case) we can never recover any costs.

I should like to refer to a newspaper report of a case tried some seven or eight years ago (*Briscoe v. Meakin*) which was taken to the Court of Queen's Bench, and which was decided in favour of Messrs. Meakin. The facts were as follows:—

DISMISSAL FOR DISOBEDIENCE TO ORDERS.

In the Queen's Bench Division yesterday, Mr. H. Y. Stanger applied to Mr. Justice Hawkins and Mr. Justice Wills, sitting as a divisional court, in the case of *Briscoe v. Meakin (Limited)*. The learned counsel who represented the complainant Briscoe asked the Court to grant a rule nisi calling upon the stipendiary magistrate of Hanley to show cause why he should not state a case. The proceedings were taken under the Employers and Workmen's Act for compensation for dismissal without notice, and the magistrate had dismissed Briscoe's application without calling upon the defendants, holding that the dismissal was justified upon the admitted facts. The man was dismissed without notice, and without any payment in lieu thereof, although, the learned counsel contended, he was entitled to a month's notice. Briscoe had refused to comply with an order to do something which he never contracted to do. He was employed at some pottery works as a glost-placer, and people employed in this capacity worked at ovens and put the pottery into the ovens before it was fired, and took it out after it was fired. The work was of a very laborious and exhaustive character, and it took a set of eleven men two days to complete an oven. The eleven men were paid £4 15s. 2d. per oven, which they divided equally, and on the defendants' works there were two ovens and two sets of men. The plaintiff's case was that the two sets were entirely independent, and if from any cause one set happened to be short the other set was never drawn upon, but a casual workman was taken on to fill the vacancy. The work occupying two days, half was done on the first day, and then the set was entitled to leave; on the second day they completed the work, and were paid the £4 15s. 2d. On the 8th of December, Briscoe was employed with other ten men of his set at his own oven work, having commenced at half-past 6 in the morning. At half-past 3 they were getting towards the end of their day's work, and at that time the manager came and ordered Briscoe to work at the other oven, and he refused. They were short of men at the other oven, and had not got on

well with their work, and the order, if carried out, would have kept the man three hours longer than if he had finished his own oven, as he had contracted to do. The contention on the part of the complainant was that he was ordered to do something which he had not contracted to do, and therefore could not be summarily dismissed for refusing to carry out the order.—Mr. Justice Wills: What did the manager say when he dismissed the man? Mr. Stanger: I only know that he dismissed him.—Mr. Justice Hawkins: Is this application made on behalf of Briscoe, or really by a combination? Mr. Stanger thought that very likely there was a combination.—Mr. Justice Hawkins: I ask, because it is expensive litigation for a man earning 28s. a week. If this is a combination case somebody ought to be responsible for the costs in the event of the appeal failing. Mr. Stanger: Yes.—Mr. Justice Hawkins: You can take your rule.—Mr. Stanger said he ought to mention that evidence was tendered as to the custom in the trade. It was objected to, and the learned magistrate ruled that it was inadmissible.—Rule nisi granted accordingly.

At the time it was tried, probably Briscoe was not possessed of sixpence, nor did he own a stick of furniture, and yet he goes into the Court of Queen's Bench and employs expensive counsel, and, when the case is decided against him, with costs, Messrs. Meakin can recover nothing, although it was really the union fighting the case all along. This was a particularly flagrant case, because the action was of such a flimsy character that the case was decided by the stipendiary, and afterwards by the Court of Queen's Bench, without calling upon Messrs. Meakin for any defence whatever.

Messrs. Meakin state that "In no single instance where the unions have brought actions against us in consequence of trade disputes have they ever won a case, and in no single instance have we ever been able to recover our costs." I consider that as the unions are at the bottom of all trade troubles their funds should be held liable for all damages, and their officials made responsible in case of mal-practices, or of inciting workpeople to interfere with those who wish to work.

You will see from the case of *Briscoe v. Meakin* that the then Mr. Justice Hawkins took entirely my view, when he remarked "If this is a combination case somebody ought to be responsible for the costs in the event of the appeal failing," and counsel for the other side agreed, and also stated that he thought it very likely that the action was not being brought by Briscoe, but by a "combination"—in other words, a trades union. I may add that except for the unions and professional agitators I do not believe that we would have any strikes, because we can always settle any trade disputes amicably through our Board of Conciliation.

4980. You have given this evidence not as a lawyer but as an ordinary man, considering what would be the effect in your own trade if those Bills were law?—Precisely; as far as I know they would put a power in the hands of the trade unions which could only be for evil. I do not know whether I should be out of order in saying that there was a case showing the way the matter works in one of my own works a little while ago that might perhaps throw a little light on the subject. I came there one morning and the bailiff informed me that the ovens could not go in. There is a certain amount of work which has to be done each day by a body of men before the works go on at all, and it could not go on that day because we had accidentally engaged a non-union workman, and the union had sent word that the men were on no account to work or to set that oven in unless that non-union workman was withdrawn. In the old days that could not have taken place, because the men were liable to a criminal prosecution for neglecting their work without giving the employer a month's notice; that was the old law, but as the law was then, and is still, we have only a right to a civil action. We were obliged to give way to those men and to allow the non-union man to be discharged, and he lost his berth because we could only sue the men who absolutely refused to work; we could not then, or we did not think we could, sue the union who had ordered that action to be taken. Had that case taken place since the

judgment which the men are fighting against, originally the Taff Vale Judgment, we should have allowed the thing to go by default, we should have submitted to the loss which would have been involved upon us by that action, and we should have sued the trade unions for the damage which was caused by their illegal action, because this point they ask for is not that they may be allowed to do what is legal without consequences, but that they may be allowed to do what is illegal without consequences. These men, as this case will show you, have no other legal right but to give a month's notice, and they, individually, would have been civilly responsible for the loss incurred. Now the object, as I understand it, of these Bills is that the union may be still enabled to give those orders to those men illegally, allowing them to be carried out, and then leaving simply a man of straw when the action is fought who has nothing to pay with. That is how I understand the case, and that is what we protest against.

4981. May I ask you this practical question: Have you had non-union men since the Taff Vale decision in your works?—Just at the present time the unions have not the power they had with us, and we have non-union and union men, so that the question has not arisen, but if we were again placed in the position we were in then, when the unions had more power than they have now, we should act differently.

4982. When you say they have not as much power now as they had, to what was that due?—That was due to two causes, in the one case mainly to the state of trade, and, directly, to the fact that only a comparatively small portion of working men are in any of the unions, but the union, in a state of good trade being organised and being a united voice, can compel, and bring to bear pressure upon the non union workmen which in bad trade they are not quite so well able to do, because there are more men than there are places for, and when work is scarce and men are plentiful we can get along better than when the reverse is the case.

4983. (*Sir Godfrey Lushington.*) Now if a trade union incites a man to commit breach of contract you would not proceed against the individual workman, but would proceed against the union?—We should proceed against the union under the Conspiracy law which they wish altered.

4984. If you did proceed against the workman, could you complain at all of the union supplying him with funds to defend himself?—We should never think of suing the man, because we should not get anything. Take the case of a man suing, which is this case of Meakin's, I think I might refer to the latter part of the report given in my *précis* containing a significant remark by Mr. Justice Hawkins, with which I thoroughly agree, "Is this application made on behalf of Briscoe or really by a combination?" and their representative replied that he thought it was a combination. (*Mr. Justice Hawkins.*) "I ask because it is expensive litigation for a man earning 25s. a week. If this is a combination case somebody ought to be responsible for the costs in the event of the appeal failing."

4985. What have you to say on the subject of the case of *Briscoe v. Meakin*?—I say that the man had practically no case; he was proved to be entirely in the wrong, and so completely was he proved to be in the wrong that the evidence of the manufacturer was not even asked for.

4986. Do you propose that the law should be altered so as to prevent a case like that of *Briscoe v. Meakin*?—To my mind it is a very difficult question to answer; I think it is in a totally different position from the case where the union take an illegal action. This man thought he had a grievance, but you will see the weakness of the point comes in here, that this man by his action stops a factory illegally at the command of the union, and when the master takes action he is put by that man with no case whatever to a very heavy expense. The man could not have conducted the case himself, he could not have found the money himself, and the union who fought that case and found the money to do it when it failed take refuge behind him and say, "There is nothing for anybody."

4987. In future you will not be much troubled with that, I suppose, because if the union has incited a Briscoe to break the law you will proceed against the union?—

Yes, we should proceed against the union for causing us the damage and loss and we should have our remedy, but if the law is altered in accordance with these Bills we shall not have that remedy any longer.

4988. (*Mr. Cohen.*) But if the law is not altered as regards the liability of trade unions you would have a remedy in this case?—Yes.

4989. And you would be satisfied?—We should be satisfied certainly; we are not asking for any alteration; but we are simply opposing the proposed alteration.

4990. (*Sir Godfrey Lushington.*) Has your Association any rules as to the course of action in case of a strike or lock out?—I do not quite understand the drift of the question. If the question of a strike or lock out arose it would be considered at the time it did arise, and the instructions would be given; we should not have any rules. The only rules bearing on the subject are rules which have been exceedingly beneficial throughout, and those are the Arbitration board rules.

4991. Have you any rules providing for mutual assistance to be given after a strike or lock-out has been started?—No we have not; we have no formal rules to that effect.

4992. You speak of the evil of professional agitation, I think, and you also express the opinion that trade unions and their officials should be made responsible in case of mal-practices or of inciting workpeople to interfere with those who wish to work: by mal-practices I suppose you mean illegal practices?—Yes, naturally.

4993. What do you mean by suggesting that they should be made responsible for inciting workpeople to interfere with those who wish to work?—That brings in the picketing question.

4994. But apart from picketing and other illegal acts, because breach of contract is an illegal act and so are picketing and violence?—What we consider is this: that where a non-union workman or a few non-union workmen have been engaged to come down to the factory to work during the time of a strike or lock-out the union men should not be allowed to gather in an unruly crowd outside the works and boo and do everything they possibly can to stop these non-union men coming, possibly short of absolute physical violence, but not always stopping at that. The usual thing is to have what are called pickets, but there is no such thing as "peaceful picketing." If you simply arrange for peaceful picketing the matter is at an end. The place for picketing is meeting a man and explaining to him that a dispute is being carried on at a particular place at which he is asked to go to work and suggesting to him that in the circumstances he should refrain from going to work. That is what I understand peaceful picketing is supposed to be for.

4995. If it was made known during a strike by the unionists that anybody who went into work for the employers then would be struck against so that he would not be able to get work in future, would you call that an interference?—Certainly I should.

4996. Do you consider that unionists have no right to refuse to work with non-unionists?—I think it is a very unfortunate thing for them to do. Each man, unionist or non-unionist, undoubtedly has the right to work or not to work, and as long as the thing is done legally I do not think there could be any objection to a man being asked not to work with non-unionists, but it is certainly bringing a very unfair pressure on the man to frighten him to the extent of stopping him from his work.

4997. I am not saying it is reasonable; I only ask you whether you think it is, or whether you think it ought to be unlawful?—To my mind it is impossible to make a thing unlawful which simply means that a man has the right to work, or not to work. I think each man has the right to work whether he be unionist or non-unionist, and to please himself whether he does so within the limits of the law. These things rarely are within the limits of the law.

4998. (*Mr. Cohen.*) What is the object of your Association?—The object of our Association is to protect the mutual interests of the manufacturers where their interests are identical, not only in the question of labour but also in any outside question that may affect the trade; for

Mr. F. R. Benham.
21 Dec. 1904.

Mr. F. R.
Benham.
21 Dec. 1904.

instance, a combination amongst persons who have a particular thing to supply brought to bear against the association would be brought before our Association to consider what we as a body should do to deal with this difficulty which threatened the whole business.

4999. It is an Association for the protection of your interests?—It is an Association for the protection of our mutual interests, and what it has generally been occupied with has been arbitration; it was one of the first and most successful of the Labour Arbitration Boards in the country.

5000. Does your Association meet when there is a strike for the purpose of considering what steps should be taken?—We perhaps are exceptionally and fortunately situated, because owing to the fact of some of the rules of the Arbitration Boards being still mutually binding we only alter the rate of wages once a year, and the fundamental principle of our original Mutual Arbitration Board was and is that six weeks' notice should be given prior to that period of any alteration which either side might wish to bring to pass, and on the first receipt of such a notice the Association would be called together.

5001. I want it made a little clearer what the Arbitration Board is. Of whom does it consist?—The Arbitration Board consists, in the first place, of twelve workmen and twelve masters with an umpire who may or may not be present at all the meetings; Lord Brassey was perhaps one of our best known umpires; and there is also a secondary smaller body, consisting of two or three masters, and two or three operatives, and in case of a single dispute at the factory springing up at any time they would be referred to and asked to meet at that factory and endeavour to arrange the difficulty.

5002. Do you find that by means of this Arbitration Board a great many disputes are settled?—Nine-tenths of them at the least.

5003. And do you or do you not find that the awards made by the arbitrators are complied with and obeyed?—Unfortunately upon the general question of the rise or fall in wages, which is a usual thing, that is referred to the umpire, the men have given notice to discontinue the

Board owing to the fact that one of the last decisions on the question of a reduction of wages was given against them.

5004. I am supposing now that the Arbitration Board has made an award. Have you generally found that those awards so made have been complied with and obeyed by the workmen?—In our experience in every case.

5005. And now you say there is some objection to the Arbitration Board?—Yes, now they object to the Arbitration Board because they have had one or two adverse decisions; when the decisions were a compromise or generally for an upward tendency the system worked admirably, but when it began to work the other way then there came friction, and the men wished to fall off.

5006. But still there have been awards made against the workmen?—There has been an award made against the workmen, and obeyed strictly.

5007. In fact, up to this time all the awards have been obeyed?—Absolutely in every case.

5008. And you do not find that the trade unions have advised them or encouraged them to disregard the awards?—Oh, dear, no, not in any way.

5009. Now you say the workmen have some objection to the Arbitration Board; that question I suppose is still being agitated?—That is still being agitated.

5010. And you do not know how it will be solved?—No, we are still hoping to be able to restore the old arrangement.

5011. Have you studied rather carefully the Bills which have been brought in?—Yes, I have read them fairly carefully.

5012. Picketing very often amounts, does it not, to a public nuisance?—It is simply a terrorism.

5013. And in so far as it is a public nuisance, or causes or tends to cause intimidation, you would check it and punish it?—Certainly; as long as it is a matter of persuasion we have no objection to it at all—it is the intimidation inseparable from it we object to.

Mr. THOMAS WARBURTON and Mr. F. B. KNOTT called and examined.

Mr. Thomas
Warburton,
Mr. F. B.
Knott.
21 Dec. 1904.

5014. (Chairman.) (To Mr. Warburton.) You are a member of the Federation of (Master) Bleachers and Dyers?—Yes, I am Vice-President of the Federation. I am a managing director of the Bleachers' Association, Limited, one of the large textile combines of the North, and we have a matter of fifty works in Lancashire and in Scotland.

5015. Where are you in Scotland?—In Glasgow, and round about Glasgow.

5016. (To Mr. Knott.) Will you give your designation?—I am an accountant of No. 2, Cooper Street, Manchester, and I act as Secretary for the Federation of Bleachers and Dyers, not of the Association with which Mr. Warburton is connected.

5017. Both of you gentlemen have been asked to attend here by the Federation of (Master) Bleachers and Dyers?—(Mr. Warburton.) Yes.

5018. The Secretary of the Commission sent you the Bills (vide Appendices, pp. 7 and 8) which were introduced into Parliament last Session with a view to your giving your opinion as practical men in the trade as to what would be the effect in your own trade if those Bills became law?—Yes.

5019. And you have kindly furnished us with this statement which you now put in?—Yes.

The Statement is as follows :

We are strongly of opinion that the Bills should be opposed, in the interest of both the employer and the workpeople.

Under the Act of 1871, the Trades Unions have had conceded to them every right to combine, and this concession appears to us to carry the power to withdraw the services of their members when a dispute arises. In view of the inconvenience caused to employers by the withdrawal of a trained staff, this Act is a sufficiently powerful weapon against the employer. Any extension of the privileges already provided for in the last paragraph of Clause 7 of the "Conspiracy and Protection of Property Act, 1875," would, in the form of legalised coercion, take

away from the employer his reasonable right to seek elsewhere for assistance in carrying on his business.

In support of this opinion our experience recalls circumstances which arose in connection with a strike at the works of Messrs. Hepburn and Company, of Ramsbottom, in the latter part of 1891. This strike was constituted by the Bleachers' Operatives Union on the refusal to grant an all-round 10 per cent. advance in wages. Messrs. Hepburn had every reason to believe that an amicable settlement of the whole dispute could have been arrived at had it not been for an organised system of picketing carried on by leaders of the men's union. Those willing to work were intimidated and interfered with in every way; even women were very roughly handled, and two deaths were attributed to the strike.

A similar system of terrorising was adopted by the same men's union in connection with a dispute which occurred at the Works of Messrs. Blair & Sumner in 1893, though not quite to the same extent as in Messrs. Hepburn's case, owing to the fact that the works were situated in Bolton, the headquarters of the union, where more sympathy prevailed with the men. At a dispute, however, which took place at the works of Messrs. John Whitehead and Company, of Elton, near Bury, in 1893, picketing was carried on with determined vigour. The local police had to be augmented from the county police force, and such workpeople who remained at work had to be provided with accommodation and food on the premises.

We believe, moreover, that picketing, if legalised, would give rise to a very indiscriminate use of its powers. The Secretary of this Federation has, in the course of his duties, been hustled in the street in Bolton, and on one occasion was met in a country lane leading to a works by a band of men and youths in a manner which might easily have assumed a form of intimidation, and, on another occasion, received a wire to say his office in Manchester was being watched by trade union officials. In this case it must be admitted that the object of such watching did not transpire, but we submit that any form of picketing, beyond that allowed, namely, to give or receive

information, is calculated to act adversely to the ordinary rights of individuals, and, consequently, we would protest against further privileges even in the nature of what is termed "peaceful picketing."

We have stated that we feel that any extension of the privileges of picketing would not be in the interests of the workpeople themselves. Both Mr. Warburton and myself have, since the dispute of Messrs. Hepburn, held conferences with the same men's union many times in each year. We have had every opportunity to learn intimately the characters of some who took an active part in the disgraceful picketing referred to. We must admit we found them consistently well-behaved and well-meaning. In one particular instance, we know a man, whom it was considered at the time should be prosecuted, who is to-day a manager at a works, and a man who holds a respectable position in business and private circles. We therefore think that, under the excitement and surroundings of a picketing campaign, good men are led away against their better feelings, and we go so far as to say that, personally, we think the more respectable leaders of trade unions must feel that the present restrictions on picketing act as a wholesome check upon irresponsible members.

Any Act to make it lawful for two or more persons to do what may now be done by one without breaking the law would simply be to do away with the law of conspiracy altogether. We can only say briefly that such a proposal should not for one moment be considered.

We consider that the funds of trades unions should not be wholly applied to the purposes of trade disputes if partially subscribed for benefit purposes.

It is extremely difficult to obtain information respecting the funds of a trades union, but we are in possession of a copy of a half-year's balance sheet recently issued by the union we deal with. From this account we elicit the fact that members of that union pay two distinct contributions of 3d. each per week, one of which is stated to be for superannuation, funeral and benefit purposes, the other is not defined. The total yearly margin between the gross receipts from both of these contributions and the gross expenditure is shown to be £2,417 4s. 2d. Manifestly one-half of this balance should be capitalised in reserve for benefit purpose, and therefore if this union acted justly to its benefit accounts a sum of £1,408 12s. 1d. only should be applied to any dispute which may arise in the course of a year. Such an amount would not go very far to carry on a strike of any magnitude. We can only infer that all available funds would be used. A position is thus created which would appear to us to be an evasion of the purpose for which the Friendly Societies Acts of 1855 and 1858 were introduced.

Further, it has come to our knowledge that pending the hoped-for reversal of the Taff Vale judgment no action is now taken by the leaders of trade unions without instructions at every stage by a ballot of every vote in the union. Now most unions have a rule to the effect that non-compliance with a strike determined upon involves the loss of membership and we presume with accrued benefits. Under such a rule the fear of expulsion must naturally influence votes even under a system of ballot, and we consider that workpeople should be protected from such indirect influence when voting in respect to a strike.

Finally, in offering the above opinion we can only respectfully express the view that recent judgments should be maintained. They are the natural and inevitable outcome of the Act of 1871. Acts which have been submitted to continual amendment in their course through Parliament must emerge full of anomalies which only a series of judgments in the courts can set right. The trade unions have now arrived at the stage when their Act has been properly defined, and they should accept the position. Employers are going through the same experience in respect to the Workmen's Compensation Act on which the balance of judgments are in favour of the workpeople.

5020. (Sir Godfrey Lushington.) You are opposed altogether to picketing, I understand?—Yes, we are.

5021. If you look at Section 7 of the Conspiracy and Protection of Property Act of 1875 you will see the final clause is to the effect that attending and watching for the purpose of communicating or obtaining information shall not be deemed watching and besetting. Do you wish that to be retained or not?—We do not wish

picketing to be done by a crowd or by more than one; we think a person has quite a right to approach a workman, singly. Mr. Thomas Warburton, Mr. F. B. Knott.

5022. (Chairman.) We have already taken from your memorandum that you have said you do not wish that exception extended, but what Sir Godfrey wants to know is this: in a perfect state of the law do you think it would be much better if that exception were out altogether, and all watching and besetting was made illegal?—It would be better for commercial purposes entirely if all watching was done away with; no doubt trade would run on smoother and better. 21 Dec. 1904.

5023. (Mr. Cohen.) It would be better for trade if there were no strikes?—Exactly, and that would be one of the ways to do away with strikes. Our idea is that strikes should be made as difficult to accomplish, both for masters and for men, as possible.

5024. But if you will kindly look at the section, it has been proposed that that should be repealed: What have you to say to that?—As far as I can see for the moment, I have never thought that point out.

5025. (Sir Godfrey Lushington.) I do not understand this paragraph on page 2 of your *précis*. "Any Act to make it lawful for two or more persons to do what may now be done by one without breaking the law would simply be to do away with the law of conspiracy altogether. We can only say briefly that such a proposal should not be for one moment considered." But is any such proposal made in the Bills before you?—The Bills before us want, as far as we understand, to make it lawful for more than one person to do what one person can now do.

5026. Is not that a mistake?—Not that I know of.

5027. I think you are referring to this proposal: "An agreement or combination by two or more persons to do or to procure to be done any act in contemplation or furtherance of a trade dispute shall not be a ground for an action if such act when done by one person is not a ground for an action (*Vide Sir C. Dilke's Bill, Appendices, p. 8*)"?—Exactly.

5028. But it nowhere purposes to say that persons may do in combination that which one person may do?—When that law is carried out in actual practice and in business it would mean that supposing a strike was on a number of persons would be outside the works picketing, and that would prevent any individual coming to those works to ask for a situation. He would be overawed by numbers, and that is the great difficulty; with a crowd of this number it leads almost immediately to a breach of the peace.

5029. You consider that in some cases the funds of Trade Unions are mis-applied?—Quite so.

5030. I believe (Mr. Cohen will correct me) at this moment the question whether the member of a Trade Union can take proceedings against the union for misapplication of funds is now before the House of Lords?—I do not know.

5031. I do not understand this in your memorandum: "Further, it has come to our knowledge that pending the hoped-for reversal of the Taff Vale judgment no action is now taken by the leaders of Trade Unions without instructions at every stage by a ballot of every vote in the union" (that we can understand). "Now most unions have a rule to the effect that non-compliance with a strike determined upon involves the loss of membership and we presume with accrued benefits. Under such a rule the fear of expulsion must naturally influence votes even under a system of ballot, and we consider that workpeople should be protected, from such indirect influence when voting in respect to a strike." What exactly do you propose with regard to that?—It works out something like this: supposing a workman joins the union with which we work; as a rule he has two objects—the one is that he will have out-of-work pay, and the other that he will have a pension when he attains a certain age. Roughly speaking their funds are divided into two, one half of the funds going for the out-of-work pay and the superannuation when they attain a certain age, and the other half going for the ordinary working expenses of the union. Supposing a severe strike takes place, the whole of those funds could be depleted and the superannuation fund could be put in jeopardy, and we think that as the

Mr. Thomas
Warburton,
Mr. F. B.
Knott.

21 Dec. 1904.

union is practically a friendly society in one half of its working and a Trade Union in the other half, the friendly society benefit funds ought to be protected.

5032. What do you mean by "protected?" Do you mean that an Act of Parliament should be passed to prohibit any such arrangement whereby, what I may call, the friendly society funds of the union should not be used for strike purposes?—Yes, we feel that when a man joins a union, and he pays a separate three pence per week for benefit purposes for many years, he should be assured that that money is devoted to its proper purposes.

5033. Do you propose that an Act of Parliament should prohibit a man from joining a Trade Union, the purposes and arrangements of which he approves?—Oh no, not prevent him from joining it; he can please himself about joining.

5034. Supposing he says, "I like the union, and my idea of a union is that all its funds should in case of necessity be utilised for the purposes of a strike," are you going to pass an Act of Parliament to say that the man shall not do as he likes, and that such a union as that shall not be allowed to exist?—When men are asked to join a union—and I am speaking now from every day experience—the argument is used, "You join the union and you will have the out-of-work pay and superannuation when you come to a certain age"; that is the promise given by the union to the man, and that promise ought to be fulfilled.

5035. I suppose the law would presume that the workman who joins a union understands the rules and organisation of that union; he would understand that the provident funds would be applicable for the purposes of strikes?—I do not think that understanding is quite so clear with the bulk of the working men.

5036. You cannot make an Act of Parliament, I think, that workmen should have better understanding?—No.

5037. I want to know how you wish to proceed to carry out your wishes?—The better idea would be by separating the funds.

5038. Do you want to make that compulsory—to prohibit the workmen from establishing a Trade Union where the provident funds may be used for strike purposes?—Quite so.

5039. Would you like to be prohibited from joining a society whose purposes I might think very unreasonable and injurious?—It would be better for me if it were so.

5040. You would like the law to protect you in that way?—Yes, if I had paid money for a certain purpose I think that ought to be carried out.

5041. It is paid for that purpose subject to the overriding, dominant condition that the money may be used for some other purposes; you accept that?—I should say it would be better if there was a clean issue between the two; that is my opinion.

5042. There is a difference, is there not, between saying that another arrangement would be better, and saying "We prohibit this arrangement from being carried out"?—I quite see the force of what you say, but looking upon working men as I do, I know that they do not discriminate between these things.

5043. You treat them as children in fact?—Not exactly, but the ordinary workmen do not understand the far-reaching aspects of the law although the leaders of the union do, and they want to have the larger funds at their disposal.

5044. (Mr. Cohen.) You spoke about crowds coming near the premises and picketing; those crowds constitute a nuisance, do they not generally?—A very great nuisance.

5045. And your great objection to picketing is that it generally constitutes a public nuisance and that it is intended or calculated to cause unlawful terrorism and intimidation?—That is so.

5046. Those are your objections?—They are. I think I might here state that our experience, both Mr. Knott's and my own, with our union has been an exceedingly pleasant one. We meet them often during the year and we find them men of a very satisfactory state of mind and we are able to make business arrangements with them constantly during the year, but somehow when a strike takes place they seem to run to the very extreme, and, as we have stated in the account we have given, the

strikes we have had with the union have generated a good deal of difficulty, and we seem to feel that the better men in the union are rather glad of the present restraint.

5047. One question about separation of funds. You think that it would be a benefit if what might be called funds for provident purposes were distinctly separated from the other funds, so that the former funds could not be applied for strike purposes?—I am sure it would.

5048. And, at any rate, you are of opinion that if any legislation is necessary to enable this to be done, it would be wise to introduce that legislation?—I think so; I believe it would be a boon to the workmen.

5049. I am not going quite as far as you suggested. Legislation might be introduced making all trade unions illegal associations unless they separated their funds in that manner; you can conceive legislation of that kind?—Yes.

5050. And you would be rather in favour of that legislation, I think you say.

5051. (Chairman.) Before you answer that question, there would be an intermediate position also. You might either go the whole length Mr. Cohen has just put to you, making it illegal for trade unions to exist, so to speak, unless they treated their funds in that way, but you might also have legislation of a kind to make it much easier for them to do it than it is at present?—A good deal would depend upon what the union promises the workmen to begin with; if it is a union for ordinary trade purposes with no superannuation—

5052. (Mr. Cohen.) We are all speaking of those numerous trade unions, in which there are funds which are primarily to be devoted to what may be called friendly and benevolent purposes and also other funds; confine your attention to that numerous class of trade unions; would you make all such trade unions illegal unless they separated their funds in such a way that the one fund only could be devoted to strikes?—I should.

5053. Now taking the second point, which is one of very great interest, if it is not thought expedient to go just so far as you have suggested, do you not think it would be a great advantage if legislation were introduced which would enable trade unions to separate their funds in that way in an easy and effectual manner?—That would be better.

5054. (Sir Godfrey Lushington.) You are vice-Chairman and Secretary respectively of the Federation of (Master) Bleachers and Dyers?—Yes.

5055. Has the Federation any rules to the effect that the members shall give assistance to one another in case of a strike arising or a lock-out?—Yes, we have.

5056. Can you let us have a copy of those rules?—Yes, Mr. Knott will hand you a copy of the rules. (A copy of the rules was handed in and extracts therefrom are printed on p. 88 of the Appendices.)

5057. I think the only important rule is No. 14: "If there shall be referred to the Federation or to the Joint Committee any difference or dispute between a member of the Federation and his workpeople, or any of them, the Federation or the Joint Committee may at the request of such member undertake and conduct the negotiations for the settlement thereof, and in the case of a strike or lock-out at the works of any member whose action shall be approved may afford to such member in such manner and for such period as may be thought fit, any pecuniary assistance which may be considered desirable." Now such being the practice of the employers in the trade, do you see any objection—if employer may assist employer in the case of a strike—to workmen being allowed to assist workmen in the case of a strike?—None whatever.

5058. Therefore, they might assist them either by lending or giving them a certain sum of money, and they might assist them by means of a secondary strike. Do you agree to that?—Yes, they have a perfect right to do so; they can use their labour as they like, on giving proper notice, and they are at liberty to do that. It must be done in a constitutional way.

5059. (Mr. Cohen.) In a legal way?—In a legal way.

5060. There is just one question I want to put to you in reference to the other question I addressed to you a few minutes back. Do you know that there is an Act of Parliament which exempts from income tax the funds of the trade union which are to be devoted to provident and benevolent purposes?—I was not aware of it.

5061. (*Chairman.*) (*To Mr. Knott.*) Do you want to say anything about the question that was put to Mr. Warburton about the Conspiracy and Protection of Property Act, 1875, that is to say, whether you would be in favour of the repeal of the exception in the sub-section which allows picketing for the purpose of communicating information only?—It appears to me that the last paragraph of section 7 is practically a contradiction of clause (4) of section 7; clause (4) states that watching or besetting a house or other place where such person resides, etc., is illegal; and the last paragraph of section 7 says, that "attending at or near the house or place," etc., is legal provided it is only for the purpose of getting and communicating information.

5062. If you look upon it as a contradiction in terms, of course you think it would be better to be repealed?—I do.

5063. (*Mr. Cohen.*) You do not say that every proviso in an Act of Parliament ought to be repealed?—No, but I think the presence of a crowd for any purpose is a menace.

5064. A crowd is not mentioned in that Act of Parliament?—I take it that they are at liberty to assemble in multitudes there.

5065. (*Sir Godfrey Lushington.*) I think there are two other clauses in your rules, to which I should like to call attention; No. 20: "If any member shall during a strike or lock-out approved by a Federation have received work which in the opinion of his Federation properly belongs to another member of a Federation who was unable to do it on account of such strike or lock-out, such member shall, when such strike or lock-out is ended and for six months at least after its termination, refuse to continue to do such work, and no member shall during any such strike or lock-out as aforesaid engage any of the hands or employees who may be out of work on account thereof." Now supposing a member breaks that rule, what happens to him?—(*Mr. Warburton.*) It is only a matter of an honourable understanding between one and another.

5066. But he would be turned out of the Association?—No, he would not be turned out.

5067. Is that rule waste paper?—It is not waste paper, but we expect to be dealing as gentlemen one with another. I may explain that our trade is peculiar in this sense, that every bleacher does a certain class of work which bears a special stamp and character, but when a strike takes place, the work of that firm has to be done at another works, and that business is drafted to the second works and might stop there in consequence of the strike, and so we ask in that rule that a man who has got the work through the strike should tender it back again.

5068. I think it is a most reasonable rule, but what if it is broken?—If he does not do it we should consider he has broken faith, but we have no legal redress and neither should we want any, because we expect a man to be honourable enough to do it.

5069. The argument I was going to address to you is this: I assumed that if a member did not obey the rules he would have to leave the Association, and I wished to ask you whether, if employers refused to associate themselves with an employer because he did not conform to their rules or understandings, you would see any objection to trade unionists refusing to work with other workmen who did not conform to the rules of the union?—In our own case we have never had that rule brought up in such a way that it has come into actual practice. Our bleachers have rendered up the work in an honourable way, and that being the case your argument does not quite apply to our union.

5070. Let me ask you whether the next rule, No. 21, is in the nature, not of a rule, but of a request: "If at a general meeting of any Federation called especially for the purpose

of considering the desirability of a general lock-out or strike, of which meeting seven days' notice at least shall have been given, a resolution in favour of a general lock-out or strike shall be passed in manner hereinafter mentioned, then every member of such Federation who works during such lock-out or strike shall pay to the Federation, by way of penalty, such a sum or sums as the Federation may, by resolution, passed in like manner, determine, but not exceeding as a maximum for each week during which such member so works £15 for each vote to which he is for the time being entitled." That is a valid rule I suppose?—(*Mr. Knott.*) The rule is there.

5071. That is to say, you fine your members if they break the rules which you impose upon them in the case of a strike?—As a matter of fact we have not had to have recourse to that.

5072. If you do that I presume you cannot object to trade unionists inflicting a fine upon their members who work contrary to their rules?—No.

5073. Considering the effect of your Rule 21 you have no objection, you have told me, that the union should impose a fine upon any one of its members who acts against its rules?—That is so.

5074. Do you think that the union is authorised to enforce the payment of that fine by striking against that man—refusing to work with him?—No, I shall not go so far as that. I think the imposition of a fine is reasonable, but to strike against that particular individual who has to pay the fine appears to me to be to endanger the individual right of that person.

5075. Do you think that unionists have no right to strike against non-unionists?—I have never heard of a strike against non-unionists.

5076. I will put the question in another form. Do you think a workman has any right to name his own conditions on which he will receive employment?—Certainly.

5077. Might one of those conditions be that he shall not be called upon to work with a non-unionist?—Yes, it would be perfectly legitimate if he enters into employment on those terms.

5078. Therefore, of course, there would be no objection to the unionists enforcing this payment of £10 or £100 or £1,000 upon their own members?—Quite so.

5079. Would you make it actionable for a workman to say to a master: "I will not serve you unless you pay me £1,000"? You would not make that actionable, would you?—It could not be made actionable; the man has a perfect right to sell his labour.

5080. May he not name his own conditions, whatever they are, and it is for the master to say whether he will accept those conditions?—Quite so.

5081. Therefore, according to that, there would be nothing wrong, nothing actionable in a unionist or any number of unionists enforcing the payment of the fine against the master in that manner?—It appears to me that such a condition of things is never contemplated, unless you are referring to a combination of masters and men.

5082. It is quite a simple case. There are a number of instances, and the action may take one of two forms, either the unionists may say to the master: "We will not work with A. B., because he owes us £10, or until he pays us £10," and that would bring indirect pressure to bear on the master?—Yes.

5083. Another way would be to say directly to the master: "Unless you pay us the £10 which fine the man has incurred we shall refuse to serve you." Do you see that there is anything illegal in that?—Nothing, provided they do not call out those men contrary to the regulations of that particular trade, that is a week's notice or a fortnight's notice.

5084. So long as they do not break their contracts?—I think the Trades Unions Act of 1871 gives them that power.

5085. Do you think that ought to be the law?—Yes;

Mr. Thomas
Warburton,
Mr. F. B.
Knott.
21 Dec. 1901.

Mr. FRANCIS STODDART called and examined.

Mr. Francis Stoddart.
21 Dec. 1904. 5086. (Chairman.) You are a writer in St. Vincent Street, Glasgow, and you are secretary to the Scotch Committee of the National Federation of Merchant Tailors, and also of the Glasgow branch of that Federation?—I am.

5087. You have been secretary for the past thirteen years?—Yes.

5088. You were asked on behalf of your Federation to give evidence before this Commission?—Yes, I was, at least I was not exactly asked by the Federation to give evidence. I was asked by your Secretary if I was prepared to give evidence, and I submitted the suggestion to the Federation, and they approved.

5089. And you were supplied, of course, with the Bills (*Vide Appendices, pp. 7 and 8*) on which we asked your opinion, and you have been kind enough to give us the statement which you now put in?—Yes.

The Statement is as follows :

I have been secretary to the above Federation for the past thirteen years, and during that time I have been more or less in touch with all the disputes in the tailoring trade occurring in towns in Scotland where the Federation has branches.

The principal office of the Federation is in Manchester, and there are branches throughout the whole of England in the principal towns of Ireland, and in Edinburgh, Glasgow, Aberdeen, Dundee, Perth, Ayr, and Paisley in Scotland.

The members of the Federation in each town are the principal employers of trade unionists.

The Bills proceed on the assumption that an alteration of the law is desirable to legalise the peaceful conduct of trades disputes, and that recent decisions affecting the funds of trade unions through the misconduct of their officials are an injustice, and should be remedied by the Legislature. The interests of the employers, in my opinion, would be most prejudicially affected thereby were any such measures to be passed into law.

With reference to the legalisation of peaceful picketing, in my opinion the proposal is quite unnecessary, and the manner in which it is proposed to be done objectionable. Under the Conspiracy, and Protection of Property Act, 1875, it is expressly provided that attending merely to obtain or communicate information is not watching or besetting within the meaning of the section. The object of the sections in the Bills under consideration would seem to legalise any crowd to gather together at or near the workman's house or the employer's premises for peaceful persuasion in addition to the communication of information. At present it is difficult to find in experience that there is such a thing as peaceful persuasion, and if disturbances take place under the present state of the law, I am afraid that an enlargement of the privileges held by the trades unionists might be the means of considerably increasing the number of these disturbances. While one man calling on a tradesman or waiting about to speak to him might not be much of an inconvenience, the gathering of crowds is most undesirable and would become a very serious nuisance, and in addition there would be considerably more danger of rioting than there is at present. Only workmen of the very strongest moral courage would be able to resist the pressure brought to bear on them, and if resisted it might be the means of leading to disturbances. I see no reason why a trades union should have exceptional power to create a nuisance.

During the period of the strike which took place in Glasgow, Edinburgh and Aberdeen last year (1903), notwithstanding the terms of the present law wherever a non-unionist was employed the men on strike invariably desired to get at him, and many complaints of threatened violence were received. In only a few cases, however, was violence actually resorted to. The crowds which gathered about an employer's place of business watching for men coming out from their work, while fairly orderly, without a doubt had a menacing appearance and intimidating effect on a timorous workman. I am fully convinced that picketing is a serious danger, and that some means might be devised to communicate information without resorting to the tactics presently employed.

With reference to the proposal to relieve from an action for conspiracy any persons who combine to do an act which may not be the subject of an action when done by one person it should be borne in mind that while the acts

or words of a single person may be entirely harmless or altogether ignored, it is a very different matter if a number of persons unite together and bring pressure to bear on an individual. The effect of this may be that the latter against his own better judgment may be coerced into doing something rather than be a marked man to so many. I therefore think the law should remain as at present.

The proposal to relieve trade union funds from liability for damages resulting from the wrongful acts of their agents is preposterous and utterly unreasonable. Trade unions, like other persons, should be legally responsible for the consequences of their own wrongful acts, or those of their agents within their authority. Were trade unions to be relieved of this responsibility, they would be placed in an exceptionally privileged position, and while I have no doubt many of the officials would exercise their powers discreetly, it would be a highly dangerous step to place them in such a position, that they might be tempted to use their enormous power without a consequent responsibility. The agents of the trades unions are only able to exercise authority, by reason of their being such agents, and it is only right that the trades unions should be responsible for their wrongful acts. If persons injured by them are only entitled to have a remedy against the individuals, this would be virtually inoperative, as the means of the individuals are as a rule inadequate to meet the consequences of their acts.

I was asked to give illustrations of any trade union practices against which employers are not sufficiently protected by the existing law, and with reference to this question I would desire to draw the attention of the Commissioners to one point. During the recent strike, the employers were put to considerable annoyance by sandwichmen promenadeing in front of their place of business with boards bearing notices in the following terms :

TAILORS' STRIKE.—Tailors before accepting work with A. B. & Co., are requested to communicate with Operatives' Society.

This was found by some of the masters to injure their business, as customers going to call were sometimes diverted from their intention and took their orders elsewhere, although the firms in question were quite capable of executing all their orders. It might be desirable to consider whether legislation is not required to make the like of this illegal.

5090. (Sir Godfrey Lushington.) Have you a copy of the rules of your Federation?—I have not.

5091. Can you tell me whether those rules include any which regulate the action of the members of the Federation after a strike or lock-out has once begun, as to mutual assistance, I mean?—No, we have no provision in the rules about mutual assistance further than that the members in the branches not affected by the strike are to assist as far as possible, in getting work made up, and to refrain from employing workmen from the branch affected by the strike. In addition I might mention what I did in the case of the recent strike in Scotland. When the strike in 1903 was on the point of being started I wrote out a guarantee and got each master tailor who was going in to resist the men's demands to sign the guarantee under a very heavy penalty; a proportion of the expenses of the strike was borne by each master rateably, according to the number of workmen employed by him.

5092. That was the effect of the guarantee?—Yes.

5093. In the case of a strike if the employers assist one another, I suppose you see no objection to workmen assisting one another?—Not at all, so long as they do it within legal bounds.

5094. During a strike the employers against whom the strike is, are at liberty, are they not, to induce any of the strikers to come into their service upon the normal rate of pay which existed before the strike?—There has been a feeling in my Federation against employing any man who has come out on strike. If he comes voluntarily back and asks for work, and says he will have nothing to do with the strike going on, he may be taken back, but that is a matter on which some masters have different opinions; some would not take a man who had gone out on strike.

5095. I am not speaking as to what the masters would be inclined to do, I am rather speaking of what is lawful or unlawful to do. Is there anything unlawful in strikers endeavouring to induce men, who are in the service of

employers, from leaving that service provided there is no breach of contract or anything unlawful?—It depends whether they interfere with a man who is not related to them in any way.

5096. What do you mean by “interfere”?—I mean that a man is at liberty to work if he wishes. I maintain that a workman has the right either to work or not as he pleases himself.

5097. Supposing there is no interference or tyranny of any kind except that those on strike say, “Will you not come and join the strike.” Is there any objection to that?—I do not think there is anything wrong in asking a man, say, “Will you join in the strike”?

5098. Or do you think there is anything wrong in a trade union inducing anything of that kind—organising men to go round to the various works where the workers are on strike and where men are still working in the employ of the masters to ask them to join the strike?—Yes, I do, because I do not think they are able to do so quietly; they are not able to go round quietly in my experience.

5099. I am not speaking about picketing; take it without picketing, or anything illegal or anything of a directly questionable character?—I do not see that there would be anything wrong in trying to do the thing in that way.

5100. You do not think it could be considered to be a conspiracy to injure the master whose men are to be detached from his service?—To a certain extent it is a conspiracy to injure the master.

5101. It is necessarily so?—It is.

5102. It is necessarily a combined attempt and must be?—It is a combined attempt to injure the master.

5103. But would you make it an unlawful conspiracy?—Yes, I would go to that length.

5104. When the masters, either singly or in combination, endeavour to detach men who are on strike into joining their service, are they not doing exactly the same as the workmen are?—So far as the tailoring trade is concerned there is no such practice.

5105. I am speaking of what the law says or what you think the law ought to be. I understood you to say that a combination to detach men from a master's service, although there was no breach of contract, should be a conspiracy?—Yes.

5106. And upon that I ask you whether a combination of employers to detach men from a strike into their service should also be considered a conspiracy?—Naturally the one follows the other; if there is a combination of the workmen to do a certain illegal act I presume it would be illegal. I presume that the act the workmen are trying to do is illegal.

5107. You presume that the combination in itself is illegal?—Yes; then naturally if the masters made a similar combination, what is sauce for the goose is sauce for the gander.

5108. And similarly if a combination of the masters is not illegal, a combination of the workmen ought also not to be illegal?—In the case of the masters there is no combination, nor has there ever been a combination, nor is there ever likely to be a combination, to go to an individual workman, and ask him, or try to detach him to go into their united service; it is impossible.

5109. Very likely the case is improbable, or, if you like, even impossible; but I was putting it rather as a legal proposition?—I think when you are dealing with a legal proposition we should try to deal with it as nearly as consistent with what is within the bounds of possibility or probability.

5110. Not for the purposes of legal argument?—It is the old case of *reductio ad absurdum*.

5111. Do I understand that you do not approve of that line of argument, but that you wish to lay it down, plain and straight, that a combination by workmen to detach other workmen from the service of an employer during a strike shall be punishable?—Yes.

5112. And that you decline to consider whether the same principles apply to employers?—Because I do not see that it is within the bounds of probability?

5113. I wish to understand your exact position as to picketing. Are you in favour of retaining or abolishing the last paragraph of the 7th Section of the Conspiracy Act?—That is the proviso, I presume you mean?

5114. Yes?—If that was strictly adhered to there would be nothing wrong with it—the mere communicating of information, but there is persuasion always being used, and it is very difficult, I understand, for those who have been in the habit of prosecuting in those cases to get a conviction on that clause.

5115. But are you for abolishing it or retaining it?—I must really say that I have never considered that.

5116. (Chairman.) You have fallen into an inaccuracy of expression there. You said it was very difficult to get a conviction on that clause; what you really mean is, that owing to that exception it is very often difficult to get a conviction?—That is exactly what I mean to say.

5117. (Sir Godfrey Lushington.) On page 2 of your *précis* (Vide p. 286, col. 1, ante) you say, “With reference to the proposal to relieve from an action for conspiracy any persons who combine to do an act, which may not be the subject of an action when done by one person, it should be borne in mind, that while the acts or words of a single person may be entirely harmless or altogether ignored, it is a very different matter if a number of persons unite together and bring pressure to bear on an individual.” We would all agree as to that, but I wish to know how far you would carry it. You would not hold that persons combining together to do any act whatever should be punishable?—Certainly not.

5118. Then what acts do you mean?—Illegal acts.

5119. You mean something less than illegal acts, do you not? You understand what an illegal act is—a thing which is either actionable or punishable?—Yes.

5120. An individual may not do an illegal act, and a combination to do an illegal act must be illegal?—Yes.

5121. But we are speaking now of a combination to do acts which are not illegal, and I wish to ask you what are such acts? You have already said you do not mean an act which is not illegal, and you must mean certain kinds of acts; what are those acts?—I particularly refer to the combination of a number of men uniting together to harass, or pester, or hoot, or do something of that nature at a man who is working, calling him “blackleg” or “scab,” as some districts call them.

5122. I believe the technical phrase is “a combination to injure”?—That may be so.

5123. Does not a great deal depend upon what interpretation you put on the words “to injure”? In one sense it is true, is it not, that every strike is a combination to injure?—Not from the workmen's point of view; they expect it to be a combination to improve their position.

5124. I mean a combination to injure the master?—In some cases it may probably not be a combination to injure because the master might be perfectly in a position to give effect to the demands of the men. You mean that it might injure them from the financial point of view?

5125. Certainly, and every strike is, is it not, a combination to force the master's will?—Oh, yes.

5126. And every strike is a combination to compel a man to alter his business—if it is only a strike on wages, for instance, for a rise to 25s. from 24s.?—Yes.

5127. Therefore there are all these various forms of injury. Would you make a combination to do any of those things a punishable combination? We are all agreed on the one hand that a combination to do an illegal act should be an illegal conspiracy, and you have also said quite rightly that a combination to do any act whatever ought not to be punishable or a conspiracy, and I want to consider what are the intermediate acts between these two classes, the illegal class and any act whatever?—I might put it in a nutshell; I think any act where there is a combination which interferes with the liberty of the subject of another man is illegal.

5128. Let us investigate that phrase. If unionists strike against non-unionists, and the non-unionists would like to work for the master and the master would like to employ the non-unionists, would you not say that the union in striking is interfering with the liberty of the master?—No, not exactly, for the trade union consists of a body of men, members of that union, who are at liberty to work or not; no man is bound to work for a master. If I employ a clerk he can give me notice and leave me at any time, and he is not bound to remain in my service, although I may be perfectly willing to keep him, and in the same way with the trade unionists.

Mr. Francis
Stoddart.
21 Dec. 1904.

Mr. Francis
Stoddart.
21 Dec. 1904.

their union is for the benefit of the members—I presume all trade unions profess to be that—and if a trade union considers that it is for the benefit of its members to refuse to do work with a certain master, then they are at perfect liberty to do so, and the master can please himself whether he continues to employ unionists or non-unionists. If the non-unionists say they will not work with the unionists I do not see that the master has any recourse.

5129. Therefore you think a mere strike as against non-unionists is not unlawful?—I do not consider it is unlawful.

5130. That would not be unlawful interference?—I do not think it is unlawful, but if they try to take away the non-unionists who are working?

5131. But that is the only way in which the unionists can take a man away from his work, by saying "We will not work with you"?—Yes; the Belfast case of *Quinn v. Leatham*, which was something about a butcher, went into that matter pretty thoroughly.

5132. Do you agree with the decision in *Quinn v. Leatham*?—Certainly I should.

5133. If that decision amounts to a decision that unionists have no right to combine against non-unionists, would you still approve of that as the law?—Yes, certainly. I think the case was a very good decision.

5134. One word as to black lists. You give this case of a placard borne by sandwichmen in front of a place of business with these words "Tailors before accepting work with A. B. and Co. are requested to communicate with the Operatives' Society." This was found by some of the masters to injure their business, as customers going to call were sometimes diverted from their intention, and took their orders elsewhere, although the firms in question were quite capable of executing all their orders. Do you consider that placarding is illegal now?—According to the Sheriff of Edinburgh it is not illegal; there was a case in Edinburgh before the strike.

5135. Will you kindly refer us to that case?—It is only a sheriff court case; it was in 1902. "Sheriff Maconochie in Edinburgh Sheriff Court yesterday issued his interlocutor in a case on the relevancy of which he heard a debate on Friday last. The case was at the instance of Messrs. James Middlemas & Co., Tailors and Outfitters, 18, South Bridge, Edinburgh, against the Scottish Operative Tailors' Society, 142, High Street, Edinburgh. Pursuers sought to interdict the defenders from issuing, publishing, or circulating, a poster inviting tailors before engaging with the pursuers to call on them (the defenders). The pursuers maintained that such a poster would cause serious difficulty, loss, and damage to their business. The sheriff dismisses the action and finds the pursuers liable to the defenders in expenses. In a note his Lordship says that the placard was addressed to all tailors, and not only to members of the society, and that all it contained was an invitation to tailors to call on them before taking employment with the pursuers. The placard itself, he held, was *ex facie* harmless, and only invited certain persons to do a perfectly legal thing."

5136. Do you know the case of Mr. Trollope, the builder in London?—No.

5137. He got a verdict for, I think, £500 damages and a perpetual injunction?—For a similar thing?

5138. I think so?—Lawyers always differ, they say; we had grievous doubts about the legality of that decision which I have cited to you, but we do not wish to strain the relationship between the Operatives' Society and ourselves more than necessary.

5139. Do you think black lists ought to be made unlawful?—Certainly; I think black lists are a most undesirable and most injurious thing.

5140. Have you ever done such a thing as warn an employer against taking somebody into his employment?—Never during the time I have been secretary of the Federation has such a thing been done.

5141. If somebody else with not such good ideas as yourself did that, would you think that should be actionable or punishable?—I think it is almost the duty of a member of any Federation to do that in a private way, if the man is really bad and there is something against his moral character or something like that; supposing the

man were a thief, I think you are in duty bound to communicate the thing in a quiet manner to your friend.

5142. That reasoning would extend to giving warning to another member of the Federation that so and so was a turbulent agitator?—Yes.

5143. Do you see much difference between that and the trade unionists sending round lists of persons who are either non-unionists or are defaulting unionists?—Do you mean of their own workmen?

5144. Not necessarily their own workmen, but non-unionists?—Do you mean in a question between an employer and an employé?

5145. Do you see anything wrong in the trade unionists sending round to their various branches to say, "John Smith and William Stubbs are defaulters, and you must not work with them"?—I do not think there is anything very serious in that. That is done regularly in the Scottish branch of the Master Tailor's Society, not in the Masters Society but in the Operatives' Society.

5146. Do you think that should be unlawful?—I think it is very hard lines on the men.

5147. But unlawful?—I presume this is the sort of list you refer to—a black list of men who have left work unfinished for which they have been paid? (*Handing in a Report and Rules. Vide Appendices, pp. 89-92.*) It is in the interest of the employers as well.

5148. This black list which you have shown us is issued by the trade union of operatives?—Yes.

5149. But this particular list is issued in the interest of the masters and for the credit of the union?—They have a rule about it themselves and I will try to find it. It is not published in the interests of the masters, because it is only by a side wind that I got that copy; a copy is not sent to the masters at all.

5150. You would allow, would you not, that there are two modes of issuing black lists?—Yes.

5151. One may be a simple private communication and another may be a placarding or something which is offensive and contumelious?—Yes.

5152. Would you make them both unlawful or would you only make the latter unlawful?—A black list that is published broadcast.

5153. (*Chairman.*) The rule you were searching for is the 24th. "In cases of members of the Association leaving work unfinished for which they have been paid, it shall be the duty of members to report same to local secretaries with full particulars as to name and address (and, if possible, the name of the place or town to which he belongs) together with the name and address of the firm and the amount he is owing. Branch secretaries to forward the same to the General Secretary, whose duty it will be to prepare a special list of said defaulters for publication in half-yearly reports, and in the event of any of those whose names appear on the black list coming into any shop, the men shall take immediate steps to compel the defaulter to pay the debt. To be reported to branch secretaries at the end of every six months until a settlement is effected. In addition it shall be the duty of Branch Secretaries to endorse said defalcation on all certificates of transfer; but if the debt remain unpaid for a period of three years the name of the person to be deleted." I suppose the key is given really in the funny heading to the rule where it is called "acting detrimental."

5154. (*Sir Godfrey Lushington.*) Do you consider this black list lawful or unlawful?—I cannot judge whether that is lawful or unlawful.

5155. If it is lawful for the union to issue that list because they consider those men, to use the Glasgow phrase, to be acting detrimental to the union, do you not think they might issue a similar list for persons who, they might think, have been acting in a manner equally detrimental, only in another way, such as accepting work for less than the normal state of wages or breaking any rule of the union?—I think the two things are hardly similar, for in the one case the list they issue is a list which is equivalent to obtaining money under false pretences, being paid for work they had never executed, and they have acted against their own interests.

5156. Do you know of a case in which the union struck against a man because he had committed default in his accounts as their treasurer? Do you think that should be lawful or unlawful? They put a man on the black list

because he had committed default in his accounts when he was treasurer?—Was he prosecuted?

5157. Yes, he was sued?—I think that was sufficient black list without anything further.

5158. He did not pay when he was sued; they could not get the money from him. Do you think the union would be justified in putting him on a black list and circulating it?—That is really a very delicate legal question.

5159. It has been settled by the Court?—I think the man would be almost entitled to get damages from them.

Mr. D. M. NESBIT and Mr. H. B. WATT called and examined.

5163. (Chairman.) (To Mr. Nesbit.) You have come on behalf of the National Association of Master Heating and Domestic Engineers?—Yes.

5164. You were asked by the Secretary to this Commission to give evidence as to what, in the opinion of your trade, would be the effect if the Bills (*Vide Appendices, pp. 7 and 8*) which were recently introduced into Parliament became law?—Yes.

5165. And you have made up a statement for us which you now put in?—Yes.

The Statement is as follows:

If the proposed Bills became law they would be prejudicial on the general grounds that special legislation placing a section of workmen (trade unionists) above the common law of the land would tend to encourage such workmen to enter into disputes and strikes, and would accentuate differences between employers and workmen, thus prejudicing their relations and leading to the loss of business and trade.

The following observations on the sections of the Bills in question are respectfully submitted:—

Picketing.

The result of legalising "peaceful picketing" (so termed) and the power to combine to "persuade" and prevent persons who are willing to work from working is an interference with the freedom of employment both of employers and of workmen. This would bear with special hardship on non-unionists and unassociated workmen who desired to continue working or to start work on a job regarding which only some unionist grievance or difficulty existed. If a body of men have legally conferred on them the powers which the Bills seek to provide, they would be able to intimidate and coerce others from following their occupation or engaging in work and, in doing so, violent actions and breaches of the peace would almost certainly occur.

It is submitted that the present right of attending "merely to obtain or communicate information" (Conspiracy and Protection of Property Act, 1875, Section 7) preserves the rights and liberties of all parties to a sufficient and equitable extent.

Interference with Business or Contracts.

This section seeks to legalise acts done intentionally to damage a trader, and also seeks to give freedom to trade unions, their officials, and others, to commit acts which would seriously affect the liberty of persons in carrying on business and in establishing and continuing contracts.

It is submitted that, as at present, the general law of the land should regulate the carrying on of a business, and that any interference with the lawful privileges and ordinary rights of a trader by special legislation would be most disadvantageous to trade and business.

Amendment of Law of Conspiracy.

"An agreement or combination by two or more persons" entered into voluntarily is for the purpose of securing the advantages which combined action carries with it. The persons combining to secure these advantages consider that any obligations or liabilities which

5160. Who is the man?—The man whose name was put on that list. I am not aware of a case, however, at all. *Mr. Francis Stoddart.*

5161. (Mr. Cohen.) I will only ask you one question. In your opinion the main evil of picketing is that it is generally a public nuisance or that it is intended or calculated to produce and cause unlawful intimidation?—That is so. *21 Dec. 1904.*

5162. For that reason you think it is right that picketing of that kind should be punishable in a summary way by a court of summary jurisdiction, as it is?—Yes, I do.

may be incurred are outweighed by the advantages. An act if done by more than one person is not, in effect, the same as if done by one person only, and the power of a combination is generally of a different kind and more serious and far-reaching than the power of one person. *Mr. D. M. Nesbit, Mr. H. B. Watt. 21 Dec. 1904.*

It is submitted that to relieve such a combination from liability for action under the law of conspiracy would be a further menace to individual liberty and interference with freedom of employment as between masters and workmen, particularly non-union men.

Prohibition of Actions.

The complete immunity from action sought to be obtained by trade unions would place such bodies in a privileged position and free from responsibility for their acts. Liabilities and responsibilities rest upon other bodies and associations for their acts, and the same principle of law in respect thereto should apply to trade unions as to others.

It is submitted that the immunity of trade unions would open the way to much abuse of power and to acts which might result in serious loss and injuries to other bodies and to individuals.

General experience has shown that by means of actions, such as the under-noted, trade unionists may seek to injure employers. In some cases (such as Nos. 1, 2, 3, and 4) non-unionists are not exempt.

1. Leaving contracts incomplete and unfinished.
2. Leaving work without notice.
3. Loss of time wilfully.
4. Restriction of output.
5. Interference with workshop management and arrangements.
6. Interference with foremen.
7. Limitation of the number of apprentices.
8. Refusing to work with and intimidating non-unionists.
9. Refusing to work on piece or on bonus or premium systems.
10. Raising difficulties regarding the working and rating of machines.

SUPPLEMENTARY STATEMENT WITH ILLUSTRATIONS.

This association includes in its membership firms throughout the country who have specialised in the branch of engineering known as "domestic engineering." This consists of designing and constructing heating and ventilating apparatus, services for the supply of hot and cold water, fire services, cooking apparatus, laundry machinery, etc. Some very extensive installations in public buildings, hospitals, workhouses, hotels, etc., have been designed and carried out by members in different places. A class of workmen specially trained and thoroughly competent to do the work, in the most efficient and satisfactory manner, is employed by the members.

For the last few years the plumbers (both masters and operatives) have caused trouble by interfering with domestic engineers in the work of fixing apparatus for

Mr. D. M. Nesbit, Mr. H. B. Watt.
21 Dec. 1904.

hot and cold water supply to baths, lavatories, etc., in various buildings. The work mentioned is carried out by means of copper, iron, or brass heaters, pipes, and fittings, and not lead, this latter material not being in demand for the work—in fact, in most cases, it is quite unsuitable. The work has hitherto been done by the special class of workmen employed by domestic engineers, but the plumbers are now endeavouring to monopolise it, alleging that it is their work only and should not be undertaken by engineers. They are attempting to coerce clients and architects into taking the work out of the hands of domestic engineers, by threats of strikes, and in several cases, which are given below, they have carried their threats into action by stopping work.

If such action were successful, it would deprive a large body of competent workmen (whose capacity for the work undertaken has been practically demonstrated) of the means of earning their livelihood at their trade, and would create a monopoly for the plumbers. It is an example of a powerful trade union endeavouring to aggrandise themselves at the expense and to the injury of other workmen not contained within its membership.

The position taken up by domestic engineers is that their employees should be allowed to do work for which they are fully competent, and that employers should have freedom, at their own discretion, to employ these men on work on all materials other than lead. Domestic engineers do not wish to prevent plumbers doing the same class of work, if they also are competent.

A brief note of some cases of difficulties and disputes caused by the aggressive action of the plumbers is now given.

(1.) NEWCASTLE-ON-TYNE. (April, 1898.)

Claims were made by the operative plumbers for the following work, viz:—

All pipes, whether lead, iron, or copper, in connection with water, hot or cold, or gas for domestic purposes in dwellings, hotels, clubs, etc.

All work in connection with hot or cold water, such as metal mains, or iron pipes, for supplying various domestic purposes, such as cattle troughs, laundries, etc.

All lead, brass, or copper piping in water or gas or in lead or iron in connection with sanitary work or gutters down spout, etc.

All copper, brass, or lead pipes in connection with heating apparatus.

The firm on whom the claims were made maintained their right to use their discretion as to whether the work should be done by fitters or plumbers. The plumbers gave in notice to leave work, but the Association of Master Plumbers prevented a stoppage taking place then. No definite arrangement, however, was made, and in August, 1900, the plumbers struck work, because the firm would not withdraw a fitter who was fixing galvanised wrought iron and copper hot water service pipes. The firm engaged non-union men and have since worked entirely with non-union plumbers.

(2.) LEICESTER ISOLATION HOSPITAL. (April, 1900.)

The operative plumbers objected to the engineers fitting hot water service and struck work. A reference under the Conciliation (Trade's Disputes) Act, 1896, was agreed upon, and Sir William Markby, for the Board of Trade, held an inquiry at which the plumbers (masters and operatives) and the engineers (masters and operatives) were represented. (See "Third Report of Proceedings," 1901, Blue book, p. 17.) No settlement was effected, but the evidence given in favour of the engineers' contention was such that the plumbers returned to work directly after the inquiry, and the work was completed by the engineers.

(3.) NOTTINGHAM WATER-WORKS OFFICES. (October, 1900.)

The contract was given to engineers, but representations were made by the plumbers to the architect to the effect that if the hot water service work was carried out by the engineers they (the plumbers) would strike. The architect, fearing a considerable delay in the building, prevailed upon the engineers to allow their contract to be cancelled. The engineers, having great interests at stake with the architect, were compelled to take this course.

(4.) DWELLING HOUSE, GLENFIELD, LEICESTER. (December, 1900.)

A similar course was adopted as in the case of the Nottingham water-works offices. (No. 3 above).

(5.) MANCHESTER MIDLAND GRAND HOTEL. (January, 1902-3.)

This large installation of hot water service was placed in the hands of engineers. The Operative Plumbers' Society claimed that the work should be done by plumbers. The engineers resisted this claim and a general strike on the building was threatened. A conference was held between the Midland Railway Company's Directors and the representatives of the trades. The Midland Railway Company's Directors were convinced that the plumbers' claim was untenable, but as they did not wish the building to be delayed, they prevailed upon the engineers to finish the contract by employing plumbers, the Directors on their part, agreeing to pay the extra wages incurred, and also consenting to allow the engineers to publish a report of the proceedings to show that the course adopted by the engineers was solely for the benefit of the Midland Railway Company, and that this was not to be taken as indicative of the plumbers' right to the work in question.

(6.) DWELLING HOUSE, WEST FERRY, DUNDEE. (April, 1903.)

Engineers had the heating and hot water supply to fix. The Plumbers' Society objected to the fitters doing the hot water supply work, and threatened to take all the plumbers off their work. The firm arranged the matter by sending one of their non-union plumbers to assist the fitters. They felt it right to make this simple compromise in the interest of their client, whose house was being delayed through the dispute.

(7.) LEICESTER CO-OPERATIVE SOCIETY'S OFFICES. (October, 1903.)

The contract for the hot water service work was placed in the hands of engineers. The plumbers objected to their carrying the same out and prevailed upon the building committee of the society to pass a resolution that all future hot water service work should be placed in the hands of the plumbers. This was done without any reference to either the engineers or their employees.

(8.) KENNYHILL HOUSE, GLASGOW. (November, 1903.)

The hot water service installation was placed in the hands of engineers. The Operative Plumbers' Society threatened to withdraw their men and those of other trades from the house unless the engineers employed plumbers.

A conference was held between the firm of engineers who had the contract in hand and the operative plumbers, when the plumbers allowed the matter to drop, on the ground that one of the engineers' employees had once been employed by a plumber.

(9.) DWELLING HOUSE, EDGECASTON, BIRMINGHAM. (December, 1903.)

The contract for heating apparatus and hot water supply was given to engineers. The Plumbers' Society made a claim for fixing the supply pipes for hot water to kitchen, baths, lavatories, etc. No lead piping was being used, the whole of the work being done in galvanised steel-tubing. The firm had always employed fitters for this class of work, and they declined to admit the claim of the plumbers, the whole of whom were then withdrawn by their society. Several of these plumbers abandoned their connection with the society and resumed work with the firm.

(10.) CARDIFF TOWN HALL AND LAW COURTS. (1903-4.)

The engineers were given the contract for the hot water service installation as sub-contractors to the builders. The operative plumbers claimed the work, and on the engineers refusing to employ them, struck work on the building. By agreement between the contractors and sub-contractors the matter at issue was referred to the architect as arbitrator, who decided that the engineers' contractors should employ plumbers for the work, except in cases where D. M. Nesbit's patent joint was used.

(11.) LIVERPOOL—GENERAL. (February, 1904.)

The Masters and Operative Plumbers Associations ask architects to insist upon the fixing and supplying of steam pipes, or hot water pipes and apparatus for heating purposes, being placed only in the plumbers' bill of quantities.

(12.) EMPIRE THEATRE, ARDWICK, MANCHESTER.
(May, 1904.)

The engineers were fixing the pipes for the hot water supply for the lavatory basins when the operative plumbers claimed the work on the ground that all pipes for domestic or sanitary purposes in all metals are plumbers' work. The firm were doing the work by their own men according to their invariable practice since 1847, and they declined to admit the plumbers' claim although it was repeated several times and pressed on them.

(13.) FIRVALE WORKHOUSE, SHEFFIELD. (May, 1904.)

The work of putting in copper hot water service pipes was being done by engineers. The operative plumbers made a claim for this work, and on the firm declining to admit it the plumbers went out on strike. Although these men remained out the firm went on doing the work in question.

(14.) MANCHESTER HIPPODROME. (September, 1904.)

In the specification of heating an attempt was made to include a clause requiring the engineer "to carry out the contract in strict conformity with the Rules and Regulations of the Manchester Operative Plumbers' Association."

On representations being made this clause was struck out and the contract given to engineers, who are doing the hot water supply in galvanized iron. The operative plumbers make the same claim as in No. 12 above, and threaten to strike if the engineers proceed with the work.

5166 (*Sir Godfrey Lushington.*) You state (*Vide p. 289, col. 2, ante*) that "general experience has shown that by means of actions, such as the under-noted, trade

unionists may seek to injure employers. In some cases (such as Nos. 1, 2, 3 and 4) non-unionists are not exempt." You know the difference, do you not, between the word "unreasonable" and "unlawful"—unlawful meaning that a thing is either actionable or criminal, and "unreasonable" means what you know by the word "unreasonable": Taking these various instances which you give, ten in number, which of these would you say is or should be unlawful. Take the first, "Leaving contracts incomplete and unfinished": Is that a breach of contract?—I should think it would be.

5167. That you would put down as unlawful?—Yes.

5168. Then the next one: "Leaving work without notice"?—Just to explain instance 1, I think it would be, because nearly all our contracts now are made with legal bonds, so to speak, behind them and we should be held responsible originally and I think that the men ought to be bound by the same conditions.

5169. "Leaving work without notice," I suppose, would mean where notice is required by the contract?—Certainly.

5170. That is illegal and the law provides against that now?—Well, I do not think it does as far as trade unions are concerned.

5171. I think you may take it from me that it does if it is a breach of contract; if it is not a breach of contract it does not. The third item on your list is "Loss of time wilfully." Is that a breach of contract?—I should say that is more a legal question than a breach of contract, and I think loss of time wilfully is where the men are dilatory.

Mr. D. M. Nesbit, Mr. H. B. Watt.
21 Dec. 1904.

Mr. H. G. MONTGOMERY called and examined.

5172. (*Chairman.*) You are secretary of the Institute of Clayworkers?—I am the honorary secretary.

5173. You were asked if you would give evidence before this Commission and you have kindly furnished us with the statement which you now put in?—Yes.

The Statement is as follows:

The brick trade does not suffer so much from strikes as do other trades, possibly owing to the fact that the trade is split up into small portions all over the country, and that brickmakers have no trade organisation of their own. In some of the larger brickmaking centres, such as Sittingbourne, Peterborough, and West Bromwich, a number of the men belong to the Gas Workers' Union, but they do not subscribe to it regularly.

The chief centres of common brickmaking in this country are Sittingbourne and Peterborough.

At Sittingbourne no strike has occurred of any importance since 1890, and this arose out of a claim for higher wages by the men employed on the barges. Mr. George E. Wragge, who is the head of Messrs. Eastwood and Company, Limited (the largest brickmaking concern at Sittingbourne), and who is also Chairman of the Brickmasters' Association, which comprises most of the yards in the district, states that he has no trouble with his men, and that, so far, any disputes in regard to wages have been amicably settled between the masters and their employees. Mr. Wragge has no objection whatever to peaceful picketing and does not think it would in any way affect his business.

The case, however, at Peterborough, which is a comparatively new centre for brickmaking operations, is somewhat different. Mr. J. C. Hill (the largest employer of labour there) has the strongest objection to trade unionism in its present form, and he has already successfully fought one strike. Three years ago difficulties arose from the fact that when the brick trade was good and a boom had set in, the wages of the men were raised; on trade, however, becoming very slack, Mr. Hill announced his intention of reducing the wages. To this the men demurred, and he consequently shut down the works for a fortnight, at the end of which time the men returned to work again. A year after this the men and master found themselves in a similar position and the men obtained the assistance of the Gas Workers' Union in an attempt to resist a reduction of their wages. During the strike, men

were stationed outside the works and attempted, in some cases, forcibly to prevent men who were willing to work to enter upon the same. Mr. Hill consequently obtained a number of non-union men and eventually the Gas Workers' Union gave up the struggle, the strike lasting nine weeks. As a consequence a number of men lost good situations where they had many advantages in the way of cheap cottages, allotments, and being able to live practically upon their job. Mr. Hill is strongly against any attempt to legalise picketing; he is of opinion that there is no such thing as peaceful picketing, nor can be.

The most important strike of recent years is that which occurred at a famous firebrick manufactory, i.e., the works of the Glenboig Union Fire Brick Company, Limited, Glenboig, near Glasgow, in which, owing to the action of the Lanarkshire Miners' Union, numbers of men, many of whom had been at the works all their lives, and their fathers before them, had to give place to foreign hands who were drafted into this country. I have got a statement from Mr. Dunnachie, the Managing Director of the works, which puts the case very fully and clearly:—

"The strike of our fireclay miners was started by the Lanarkshire Miners' Union, of which Robert Smillie is President, and David Gilmour, Secretary. The Secretary Gilmour took our case in hand, and in the management of it he displayed much temper and little judgment; in his speeches at Glenboig he used violent language, telling the men to come out, that it would be an easy victory, and that he had beaten stronger concerns than ours, etc. At the time of the strike our miners were earning 39s. per week, and their demand was equal to an increase of 14s. per week, making 53s., a much higher rate than that of the colliers at the time, while the clay mining had none of the dangers and hardships of coal-mining, which is proved by the fact that men who had not worked in a mine before were able, within a week, to turn out an equal day's "darg" with the old hands, with seven or eight hours' working. The strikers not only demanded more wages, but they also claimed the right to regulate and manage the working of the mine. Had they got all they wanted our works would have had to be stopped. For the first four months they gave us two idle days in the week, not consecutively, but so arranged, that, with the Sunday, every second day was an idle one, thus increasing costs by frequent firing-up and damping-down. Getting tired of waiting, after four months they brought the men out on full strike. We were ready, and within two days Mr. Graeme Hunter, the "Boss Union-Smasher," filled our

Mr. H. G. Montgomery.
21 Dec. 1904.

Mr. H. G. Montgomery.
21 Dec. 1904. mines with Poles, who proved themselves good reasonable workmen, co-operating pleasantly with the employers. They were paid the same rate per ton, and were allowed to put out as much as they cared to do, and the result was that they made, on an average, better wages than the old hands. The great ambition of the Pole seems to be to get to America, and the good wages our men have been making have enabled many to emigrate; this movement has been much increased since the lowering of the Atlantic rates. It is three years since our strike, and many of the strikers have been working in the neighbourhood ever since, at labourers' work and wages. We have, therefore, no difficulty in filling up the vacancies. We are assured that the Miners' Union spent £7,000 to £8,000, but for the accuracy of these figures we cannot vouch. The clay-miners had never been in the Union before, and had only paid a few shillings per man into the funds when the strike began. The men have lost seriously, and they all now admit that the strike was unjust and foolish. Our loss amounted to several thousands of pounds. The present condition of affairs is satisfactory for both masters and men. Although labour is abundant we have made no reduction in the rate of wages and we are not likely to have another strike at Glenboig in our day.

"I have always had sympathy with the working man, and in the abstract have approved of trade unions, but what I saw during our strike makes me fear that trade unions, if they can get what they claim, will ultimately ruin British manufacturers. Reasonable men will never be permitted to guide; their hero is the man with the quickest temper and shortest mental vision—and I am not a pessimist."

5174. I notice that your statement deals with actual strikes speaking of Sittingbourne, Peterborough and also Glenboig, and you make certain quotations from what Mr. Dunnachie, the managing director of that works, said, but I do not see that in the *précis* of the evidence you have sent in to us you have directed your attention at all to the question which I think was asked you by the Secretary, namely, what effect you thought the passing into law of the Bills which were introduced into Parliament, with copies of which you were supplied (*Vide Appendices, pp. 7 and 8*), would have upon the practical conduct of your trade; have you formulated an opinion upon that?—I was obliged to appeal to those members of the trade who had had any strikes in connection with their works, because strikes are so very infrequent in the brick and tile trade. I was obliged to get an opinion

from them, and you will see here that most of them do not believe in picketing at all and they say that such a thing as peaceful picketing is impossible.

5175. (*Mr. Cohen.*) That is not your direct evidence, it is really the evidence of other gentlemen?—Yes. You see I could only get the opinion of these other gentlemen by applying to them and getting to know the effect of the strikes in their towns.

5176. (*Chairman.*) You have not really applied your own mind to the question of what the Bills would do?—I have; in the knowledge I have of the trade I should say this, that as far as the brick trade is concerned, disputes can be very amicably arranged between masters and men, and that wherever they have had any disputes it has been at the instigation of one of the unions.

5177. We will take all that for granted. The point is you seem to have got on pretty well under the law as it at present exists, and we know what the law is as it at present exists. Now there has been a proposal to alter the law, and that proposal is embodied in the Bills which you have seen?—Yes.

5178. They propose to alter the law in three particulars; I am now practically epitomising the Bills. In the first place, they propose to alter the law by legalising what is known as peaceful picketing or what is alleged to be peaceful picketing. If there was a provision passed in those words can you, from your experience, say that you think it would have a detrimental effect upon the peace of your trade or the reverse?—Yes, I should say it would have a detrimental effect.

5179. Now, secondly, the law was proposed to be altered in the way of exempting trade union funds from actions for damages. Do you think that would have any effect upon your trade, if that exemption were made by law?—I do not know that that would affect our trade at all.

5180. You have not come across that?—No, and I have spoken to one or two of the makers on the subject, and they are very much divided; I cannot get any opinion one way or the other. A good deal depends, I may tell you, upon their political views. I have spoken to some men, and they say, "We do not object to it at all, we are in sympathy with our men," and others say, "No, it is very harmful indeed." It depends entirely on what political views a man may take.

TWENTY-SEVENTH DAY.

Thursday, 12th January, 1905.

PRESENT.

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B. (*in the Chair.*)

Sir WILLIAM THOMAS LEWIS, Bart.
ARTHUR COHEN, Esq., K.C.

SIDNEY WEBB, Esq., LL.B., L.C.C.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary.*)

Mr. HENRY PLEWS called and examined.

Mr. H. Plews.
12 Jan. 1905. 5181. (*Chairman.*) You are General Manager of the Great Northern (Ireland) Railway?—Yes.
5182. You have sent us a *précis* of the evidence which you are willing to give?—Yes.

5183. I suppose you have no objection to our using this *précis* for the purposes of the Commission?—As far as it goes; but I should like to observe that since that was sent the Irish Railway Companies have held a meeting at their Clearing House, and they have desired that I should speak on behalf, not of my company only, but of the Irish railways generally. My statement is as follows:—

I have occupied the position of General Manager of the Great Northern (Ireland) Railway for some years past. My company's system comprises a mileage of 533 miles.

I have had experience of both actual and threatened strikes.

In the year 1891 the mechanics in our shops at Belfast and Dundalk applied for an increased rate of wages. The application could not be acceded, it being explained to the men that they were being paid the same rate of wages as operated in the railway shops at Crewe, Swindon, and other similar establishments.

The men at the time appeared to be satisfied with this explanation, but shortly afterwards they gave the Company a week's notice, their statement being that they had been ordered to take this course by the Executive Committee in London of the Amalgamated Society of Engineers.

The men remained out twenty-eight weeks in one case, and twenty-one weeks in the other, eventually resuming work at their former rate of wages.

In the autumn of 1897 the Amalgamated Society of Railway Servants issued generally to all the Irish railway companies what was termed "The National Programme," in which was included:—

- (a) A demand for increased wages for the whole of the men in the different grades.
- (b) Reduced hours of labour.
- (c) Extension of leave, with pay.
- (d) The recognition of the Amalgamated Society as the medium of communication between the Company and their Staff;

together with numerous other matters.

As a result of these demands not being acceded to, the Amalgamated Society endeavoured to organise a general strike on all the Irish railways. The Press took such action in opposition to this scheme that it was seen by the society that public feeling would be distinctly against any such movement, and therefore the strike, which was to be of a general and widespread character, was not persevered in.

The society then singled out two Irish companies to try conclusions with—my company and the Midland Great Western Railway. On 3rd December, 1897, the Irish Secretary of the Amalgamated Society lodged with me in bulk, under the term of "Ballot Papers," notices from the outside members of the traffic, permanent way, and locomotive departments of my company, which notices intimated the withdrawal of the staff from the service upon the expiration of a fortnight, unless their demand, as enumerated in the so-called "National Programme," were conceded.

My company took immediate action to provide a staff to fill the places of the strikers, and when this was seen by the men they stated that they had not intended these notices to be used as notices to leave the service; and they accordingly withdrew them; and afterwards informed me that the whole proceeding had been brought about by their having been entirely misled and deceived by the Irish Secretary of the Society. Many of the staff also stated that their action in being joined in the strike was not of their own free will, but solely in consequence of the threats and terrorism to which they had been subjected at the hands of the agents of the society.

The same action was taken with the Midland Great Western Company at that time; notices being served on the Company by the society on behalf of the men for termination of service at the expiration of a fortnight; but these were subsequently withdrawn by the men.

This failure on the part of the society to conquer the railway companies had had such an effect in depleting the membership in Ireland that they felt constrained, with the view of recovering their influence with the railway employees, to take some definite steps, and accordingly, in the month of January, 1898, a strike was organized on the Cork, Bandon, and South Coast Railway.

The excuse for this strike being ordered was the case of a signalman named Buckley, who had been transferred from Cork to another station on that railway for neglect of duty. The society insisted upon his being retained in his original position. The directors declined to re-instate the man in his former position at the instigation of the society, and, as a consequence, notices were handed in at six o'clock on the evening of Saturday, the 22nd of January, 1898, intimating that the staff would cease work on the following Monday at twelve noon, unless the order for the transfer of Buckley was rescinded; and the threat was carried into execution.

As a result, the Cork-Bandon Company's ordinary public service was entirely suspended, with the exception of one or two trains worked by the members of the clerical staff, and those of the outside staff who had remained staunch to the company, and this state of things prevailed for some weeks.

Eventually that company obtained a full staff from other sources, and the normal working was resumed, and, with a few exceptions, the strikers were not taken back.

This strike cost the railway company about £10,000; and the Amalgamated Society no less than £16,000.

In the year 1902 the fitters and turners in the locomotive works and the Great Southern, Midland, Great Western, and Dublin, Wicklow, and Wexford Railways, demanded and increase of 3s. per week in their wages. This was not acceded, and the men lodged notices on May 15th, 1902,

at the instance of the Amalgamated Society of Engineers, going out on strike a week afterwards.

The strike lasted for about twenty-one weeks, and the men eventually resumed work at their old rate of wages, and, further, consented to work piecework, which they had always refused to do hitherto. In connection with this strike also, there was daily picketing and threats, but no prosecutions, and the railway companies were put to great expense in providing houses and all domestic necessities for the men whom they had brought over from England and Scotland, which accommodation had all to be provided on the railway premises.

There were other strikes on the Dublin, Wicklow and Wexford and Great Southern and Western Railways in the years 1889 and 1890, upon which I shall give further information in evidence.

My company, in the case of the strike in 1891, necessarily took measures for supplying themselves with mechanics to fill the places of those who had gone out. The strikers thwarted the company in every possible way in our endeavour to supply men to carry on the public service, by employing pickets, who, during the whole time the strike lasted, perambulated the Dundalk station, waiting the arrival of the various trains, so as to intercept the men the company had engaged, many of whom they induced to return home by threats and bribes.

Those of the mechanics who remained could not pass through the Dundalk town without fear of personal injury, and without being hooted, jeered at, and so annoyed that their lives were really made to be unbearable. Thus they were practically prohibited from leaving the company's premises without their rights and comfort being interfered with; and we had actually to erect a temporary police barracks upon our premises for the protection of those we had engaged to take the place of the strikers.

This practically meant that the picketing was effected for the purpose of so annoying the men as to make their service so uncomfortable and unpleasant as to prevent their continuing therein.

In the case of the Cork-Bandon strike, picketing was carried on to an abnormal degree, and that company had to erect dwelling houses at their larger stations for use by the imported men, and to supply all domestic necessities.

Intimidation was resorted to to a very great extent, so much so that on one occasion a strike picket made an assault upon a number of inoffensive and defenceless soldiers who had arrived at Cork by boat from Milford to rejoin their regiment. These men were in civilians' clothes, and thinking they were what are termed "Black-legs," the picket decoyed them to an unfrequented part of the city, and then, along with a lot of other rowdies, beat them in a most cowardly manner. For this assault a number of men were prosecuted by the Crown, and although defended by the Amalgamated Society, they were sentenced to imprisonment, some to fifteen months, and others for shorter periods.

In my opinion the proposed Bill would, in effect, legalise all proceedings of this nature which are now illegal.

The majority of these objectionable acts, which was conduct interfering with the ordinary comfort of human existence, would no doubt be construed under the proposed Bill as "peaceable persuasion." To alter legislation by the introduction of these words is, to my mind, simply an attempt to get rid, under a delusive cloak, of the liability now involved, and it seems to me that the agents of these societies could give any amount of annoyance, and still consider themselves free from liability, by advancing the plea that their action was with peaceful intention. I consider that there cannot be peaceful picketing; the two things are directly antagonistic.

Every workman has a perfect right to be protected from annoyance or from the importunities of the agents of a trades' society, as also against their houses or places of residence being beset by any uninvited party, and he should be left in the position of only being persuaded, or invited, if he asks for this.

I can see no reason why agents of these societies should have the privilege of exemption from the Common Law that would apply to all other members of the community perpetrating the same annoyance.

If these Bills were made law it would place such societies in the position of being legally authorised to act most injuriously towards a railway company, without any fear of liability. This action is particularly open to objection, inasmuch as any strike organised on a railway leads to a

Mr. H.
Plews.

12 Jan. 1905.

Mr. H.
Plews.
12 Jan. 1905.

very great public inconvenience, as the trade of the country may be very largely interfered with by any such stoppage.

On the occasion of the threatened strike of my company's staff in 1897, the employees stated to me at interviews that they had been entirely misled by the Irish secretary of the Amalgamated Society, who had informed them that the whole funds of the society, amounting to something like £200,000, including sick, superannuation, and orphan funds, would be availed of for the purpose of fighting the railway company.

It seems anything but right that where funds of a registered society are subscribed by the members for the provision of old age, sickness, and, in the case of death, as a mortality benefit to their families, that the monies should be devoted to the purpose of fighting their employers, with the result that when the time arrives for the members claiming the benefit of these funds there is no money to meet the legitimate demands; consequently these parties, in all probability, become chargeable on the rates.

I consider that the monies contributed by the members to these provident funds should be kept separate, and that it should be illegal for such to be applied to a purpose other than that for which they were subscribed.

Another matter to be considered is, that so long as societies are liable to make compensation for the wrongful injuries they inflict this will operate as a restraining influence against these societies entering upon capacious and ill-considered strikes, and I certainly see no reason why they should be exempted from this liability any more than other corporative bodies. The officers of these associations are not always discreet, and their valour is apt to outrun their discretion, if it is not hampered by some liability.

Section 4 of the Conspiracy and Protection of Property Act, 1875, provides that any person employed by a municipal authority, or other party responsible for the supplying of gas or water to a city, town, etc., who breaks a contract of service which he knows will cause a deprivation to such city, town, etc., is subject to fine or imprisonment.

Having regard to the great public inconvenience and loss that would result from a stoppage of railway accommodation, I think it is worthy of consideration that the provisions of Section 4 of this Act should be applied to all classes of railway servants, upon whom rests the carriage of His Majesty's mails throughout the country, and the safe conveyance of passengers and merchandise traffic, so that there may not be any improper or hasty stoppage without the railway company having reasonable provision made for carrying on the public service.

I look upon the maintenance of the railway service as equally important in the public interest as the supplying of water and gas.

5184. You speak of a strike in 1891, and you say that the men explained to you that they had been ordered to take the course of striking by the Executive Committee in London of the Amalgamated Society of Engineers?—Yes.

5185. You do not suggest, do you, that that Committee prompted any breach of the law?—No; the men had on their own initiation made an application, and we met them and discussed the matter, and they were quite satisfied, and expressed themselves so at our interview. The work went on, and it was some weeks, or perhaps a month or two afterwards, when they gave in their notices as a body, and on being asked how this came about after the interview and after the mutual understanding that had been come to, they then told us very frankly that they had had a peremptory order from the head office in London that they were to take this action; so that I merely want to point out that it did not arise really from the volition or will of the men themselves.

5186. But I suppose in a strike there are always a number of persons who join the strike who would rather abstain as far as personal considerations go?—No doubt; but we were told distinctly that the men as a body had accepted the reasons we gave them as not justifying their request being complied with. It was a question simply of wages, and we showed them that they were actually in Ireland being paid exactly the same wages that were being paid at Crewe and Swindon, and some other places, and it is usually understood that wages in Ireland are something less than in England, because the cost of living is less; and this having been explained at our interview with them they said that they were quite satisfied, and they did not see that they could with reason ask for more.

5187. But you do not suggest that there is anything unreasonable, and still less illegal, in workmen joining an association on the footing that they will act according to orders from headquarters?—I cannot say that there is anything illegal in it, but in the circumstances it does appear that men who were probably not as well acquainted with the local circumstances as the men themselves overrode their voluntary conclusion.

5188. (Mr. Cohen.) They did not break their contracts, did they?—No; they gave notice.

5189. (Sir William Lewis.) What notice is required?—A week's notice in some cases, and a fortnight in others.

5190. And the strike was confined to mechanics?—Yes, that strike was confined to the mechanics. I might just observe in addition that we have always a number of apprentices, and they were not in a position to go out. However, it was thought by the men that they were assisting to carry on the work and (which was an illegal act) they induced the apprentices to come out, and they left us.

5191. So that the apprentices were also idle?—Yes.

5192. (Chairman.) Of course that was an illegal act of theirs?—It was.

5193. In 1897 the "National Programme" was issued, and I see that included among its objects the recognition of the Amalgamated Society as the medium of communication between the Company and their staff: is that an arrangement to which you object?—That is an arrangement to which we do object, and we have held that position throughout.

5194. Whilst you object to it do you consider that it is an improper proposal for workmen to make?—Well, I think it would be a very improper state of things to bring about. I think, as between any employer and his staff, they should meet each other, and they should deal between themselves directly. I cannot conceive how I, in charge of some 2,000 to 3,000 men, could expect to carry on my business properly if in all my arrangements with them I must do everything through a third party.

5195. I quite understand your position; of course it is the position of an employer and not of the employed?—Yes.

5196. (Sir William Lewis.) Do you now decline to meet any officials of any society that the men may be in?—We do.

5197. And you deal directly with your staff?—We do.

5198. With the men of the different classes?—Yes; we say that they know their own requirements and we are always open to listen to any representation that may be made. As I said to the men at the time, "Our object and desire is, that we shall have our work well done, and I cannot expect it to be well done unless I have about me a staff who I think are in unison with me and who will do their work willingly; but any representation you may have to make we will always listen to most freely and in a sympathetic manner."

5199. Have you had any strike since 1897?—Not in my own company. There have been strikes in Dublin since then.

5200. You have had no strike arising out of your declining to meet the officials of the Society, have you?—No.

5201. (Chairman.) I suppose on wages and any other matter the workmen are entitled to make any proposals they think to their interest, and you, as an employer, are entitled to decline them if you think them opposed to your interest?—Certainly.

5202. And generally, I suppose, you find this to be a convenient arrangement?—We should think for good government what I have described is the only system upon which you could work with any expectation of success. I may say that after that strike you are referring to now, I thought there might be some cases that had not come to my knowledge in which there might be something about which the men had reason to complain, and after the matter was settled I went to every centre on the line where we employed any number of men, and I invited them to meet me, and told them what my desire was, that we should work most amicably, that we, in carrying on our business, wished to have the work well done, and we wished to have every man comfortable in his position and fairly remunerated, and I may say that I was rather surprised at the

end of that proceeding to find how very little the men had to say. There were some individual cases of complaint, of course, which will always occur, but very few indeed.

5203. Then in 1897 the idea was to organise a general strike on all the Irish railways?—Yes, that was the arrangement made.

5204. Do you think that should be legal or not legal?—As regards the question of the legality of it, I am perhaps not very competent to answer, but the view taken of it by the Press at large was that it was a very pretentious measure, and that if carried out it would have resulted in great public inconvenience, and it was mainly in consequence of that unanimous expression by the public Press that that idea was abandoned, and it was then reduced to a smaller measure, by which they selected two companies, my own and another, to try the matter upon.

5205. (*Sir William Lewis.*) You think they were influenced by the notice that was taken of it by the Press?—Undoubtedly.

5206. (*Mr. Cohen.*) That is to say, public opinion affected the conduct of the workmen?—Unquestionably, or rather I should say it affected the conduct of the organisers of the strike.

5207. (*Chairman.*) In the strike of 1898, which was for the reinstatement of Buckley on the Cork and Bandon Railway, do you think (I am not speaking now of the merits of Buckley towards his employers) the reinstatement of a workman is a proper subject for a strike?—I should think not.

5208. When you say "proper," what do you mean by that word? Do you think it should be unlawful to strike for the reinstatement of a man?—I say it is lawful for them to give up their employment in a proper manner, and as regards what their object may be I cannot say that that weighs in the question; but for a strike to be organised with a specific purpose like that, if it is not absolutely illegal it is very much against the public interest, because it is bringing a third party in to determine what an employer shall do as regards the carrying on of a business in which the public safety and interest are involved.

5209. (*Sir William Lewis.*) And interferes with the management?—Clearly so. Here was the case of a man who had neglected his duty, and you must suppose that those dealing with that matter would deal with it in a sensible and reasonable manner. Speaking personally, I think that he was dealt with leniently, and to say that someone shall come in and say to a board of directors, "You shall not do so and so with your man; you shall not inflict such a change or punishment upon him," is, I think a state of things that no employer could possibly tolerate, as it would strike immediately at the root of all organisation and discipline.

5210. (*Chairman.*) Supposing workmen consider that a colleague of theirs has been hardly treated, and especially if they think he has been hardly treated because he represents them, do you mean to say that those men would not from their own point of view (I am not speaking from the employers' point of view) be justified in striking to get justice done to that man?—I do not think that those circumstances would justify that action. I think that there are other means by which, if it was supposed an injustice had been done, right might be obtained without resorting to such a drastic measure as that.

5211. Perhaps you mean by that that their conduct was unreasonable?—Certainly.

5212. May I put the relation of master and man broadly in this way—that either of them is at liberty to propose to the other any terms whatever on whatever subject, and as unreasonable as they please, but there is free option in the other to decline. Is there, for instance, anything wrong in a workman saying, "You shall pay me £100 a week," or is there anything wrong in a master saying, "I shall only pay you a shilling a week?"—Nothing, and if they do not agree the workman is at liberty to find himself other occupation. That I take to be the ordinary course of business.

5213. May we not apply that to all these cases? May we not apply that to the case of Buckley, for instance?—Yes.

5214. The workmen are at liberty, and are, from their own point of view, justified in making any proposal they think fit?—Quite.

5215. And it is no answer of the master to say, "Mind your own business," or "You are interfering with the government and proper administration of the business." The answer the employer can make is, "I decline to keep you on those terms"?—Decidedly.

5216. (*Sir William Lewis.*) This case is hardly on all fours with that, because this was a man who had neglected his duty?—He had.

5217. And you dealt with him as you did with other servants for neglecting their duty?—Yes.

5218. And the workmen took exception to it, and from what I read here they insisted that the directors should reinstate him?—That was the point; they defined what should be done, and it was quite open to Buckley to have said "No, I will not accept the reduction," and to have resigned. It is a question of free contract.

5219. He could have gone and obtained work elsewhere and you would have employed somebody else?—Yes; that I consider was his proper course to have taken.

5220. (*Mr. Sidney Webb.*) And do you suggest that it was not a proper course for the other workmen to say that they would decline to accept employment if he was not reinstated?—Everyone individually had the right to do that.

5221. And you do not suggest that they were doing anything they ought not to have done?—They did something they ought not to have done in this, that by means of organisation they all went out on twenty-four hours notice.

5222. Did they break their contracts?—They did; every man of them was bound to give a fortnight's notice.

5223. Assuming that they had merely given in their notice—that is what we generally mean by striking—you would then have considered their action quite justifiable?

5224. (*Mr. Cohen.*) Supposing they had given the fortnight's notice?—If they had given their fortnight's notice and gone out, they would have been perfectly right.

5225. (*Sir William Lewis.*) And you could not have interfered with them?—No, certainly not; but we should in such cases be at liberty without any unreasonable obstruction to supply the places of such men.

5226. (*Mr. Sidney Webb.*) Then your whole complaint against them on this occasion was that they broke their contracts?—Yes.

5227. Not at all because of the objects of their strike. I understood you at first to be objecting to their striking for that object, but I see now you are not objecting to their striking for that or any other object?—If they had given their notices and gone out in a body, they were quite entitled to do it.

5228. (*Chairman.*) But you suggest to the Commission that the action of the men was unreasonable?—Their action in this particular case was illegal in the way they went about it; but even if it had been legal I think it would have been unreasonable.

5229. And you think it was quite necessary for the employers to resist it by refusing to allow their management to be interfered with?—Yes.

5230. You will kindly allow me to make this observation, of course for what it is worth, we were very well acquainted with the undercurrent of events at this time, and men who were members of the committee informed us that they did not take this action very freely, but that it was done because it was said the previous failure had so damaged the society in Ireland that they felt they must do something to show that they were alive and that they were able to carry out something or other of that kind.

5231. (*Sir William Lewis.*) It was a question of prestige?—It was a question of prestige. As a matter of fact, the numbers of the members declined enormously.

5232. There was no dispute as to any wages question involved in it?—None whatever.

5233. It was simply a question of neglect of duty, and you treated this man as you would treat any other man who neglected his duty?—Precisely.

Mr. H. Plevin.

12 Jan. 1906.

Mr. H.
Plews.
12 Jan. 1905.

5234. (*Mr. Cohen.*) Still, the only complaint that you make is that those men did not give, as they ought to have done, the fourteen days' notice?—Yes.

5235. That was illegal, and that was the only illegal act which, in your opinion, they did?—Yes; the rest might be a matter of opinion. I might think they were very foolish and they might think they were wise and each party would be entitled to their opinion.

5236. (*Chairman.*) Do you see any objection to various kinds of workmen combining together for a strike?—Put in that way, to combine for the purpose of a strike would seem to me a little unreasonable on the part of the men; but that they should combine for the purpose of looking after their interests and assisting each other I think is quite right and quite reasonable.

5237. You agree as the starting point that the workmen of employer A are at liberty to strike against him?—Yes, in a legal manner.

5238. Now, supposing that employer A has different kinds of workmen employed, builders and engineers, you say that the builders, if they have a grievance against their employer, may strike. Do you think it is legal for the engineers to strike in order to support the builders?—I do not know that there is anything to prevent them if they do it in a way that is legal.

5239. I always presume that the mode of doing it is lawful?—I know nothing to prevent them.

5240. In the same way, if there are various employers, A B and C and there is a strike against employer A, do you see any objection to the workmen who work for employers B and C striking against their masters in order to assist those who are in the employ of A?—I think there is an objection to that, because it would be done as a matter of coercion; that is, those men would have no grievance of their own, and they would be inflicting an injury for the purpose of coercing the employer to do what he thought was unreasonable.

5241. You say "coercing," but is there any other coercion exercised in the case than that the workmen decline to accept employment from that master?—If each of these men individually gives notice and ceases work there is nothing to prevent it.

5242. (*Sir William Lewis.*) But you think if they combine together to do it it is wrong?—If they combine with that object I think it is wrong, because it is an act of coercion.

5243. They have no dispute of their own?—That is so; it is an act of coercion.

5244. (*Chairman.*) When you say "wrong," do you mean that it is unreasonable, or do you think it ought to be illegal?—I think in that case it ought not to be permitted, and if it is done with the object of coercing, there should be a liability attaching to it.

5245. What difference is there between that case and the case of any strike? Is not any strike and every strike an attempt at coercion of the employer?—If it is confined to the parties personally concerned you may say it is right for them to fight out their battle.

5246. Why confined to a particular person? Each person is the judge of whether it concerns him or not, is he not?—The nature of the application will define what is the grievance and whose grievance it is.

5247. May not a workman say, "I consider I am aggrieved by the treatment which is dealt out to another workman?" Is not that legitimate?—And if he contents himself with saying so, I know of no harm in it; he has a right to his opinion.

5248. But if he says, "I will not work for such a master" is there anything wrong in that?—I think being not directly concerned, if he enters into a combination with a number of other men to say, "We will join in a strike for the purpose of coercing our master to do what he thinks unreasonable towards a third party," that is not a proper or a legal act, or it ought not to be a legal act.

5249. Then, of course, in every case where there is a strike throughout a trade consisting of various branches the strike would be illegal?—No, not as regards any men who were concerned in the like occupation of the men who had the grievance.

5250. Take the Taff Vale strike, where the various workmen on the line—the engine drivers, foremen, guards, and so on—all combined, would that be an unlawful strike?—I suppose, as the thing stands now, probably it was legal, but I say it ought not to be, I think.

5251. You think probably it is legal now, but you think it ought not to be?—Yes; I conceive that there the man concerned was a signalman, and men in similar occupations might make common cause with him, because they might say they might all be affected more or less by the action of the company, whatever it might be; but that could not affect an engine driver or a porter, and if these men went out of their way to combine for the purpose of bringing matters to a crisis and bringing about what they did in the Taff Vale case, I think that was a matter which ought not to be legal.

5252. That means, of course, that the court to whom the matter is referred are to decide whether the men on strike have a real interest in the strike or not?—Yes.

5253. And you do not agree with the position that workmen are at liberty to strike, as has been said, for any reason, for no reason, or for a bad reason, if they think fit?

5254. (*Mr. Cohen.*) Without breaking their contracts?—Certainly not; but I would go one step further—I am speaking now, of course, very much from the railway point of view—and say that I think that for men not in a like occupation at all to combine to strike to bring about something to affect men in a different occupation altogether is a proceeding which, to my mind, ought not to be legal, that is if the combination is made with a view to coercing the employer to do something which he thinks it is not reasonable for him to do.

5255. (*Chairman.*) In the strike of 1902 you say there was daily picketing and threats but no prosecutions; why were there no prosecutions?—Because at that time apparently we were not very well informed as to what our legal rights were. The Taff Vale case and other cases which have occurred since have put a complexion upon matters that we were not quite aware of at the time. I may say that in that particular strike we had these men perambulating our station the whole day through, and it was a serious question as to whether we should remove them. We did not wish to get into any physical contest with the men, and therefore we permitted it, but my impression at that time was that we would have been perfectly justified in removing the men, and since then it has been shown very conclusively that we would have been justified in so doing.

5256. Were you satisfied with the action of the police?—Generally, so far as our experience has gone.

5257. They have given you, as far as they could, the protection to which you are entitled?—Yes, they have given us the protection as far as they thought they should go, but they have left us in this position: that the men we had to employ in place of those who were on strike were nevertheless so beset and annoyed that they dare not go outside our premises, and we had to have a special police barrack on the premises.

5258. (*Sir William Lewis.*) Had you any military aid?—We had not.

5259. (*Mr. Cohen.*) There was wrongful intimidation if the men were made to fear that they would be attacked and injured?—It did not get so far as to lead to any actual collision. One or two men went into the town and the strikers followed them and jeered them and called them such names as we know they are accustomed to use on these occasions, but it did not go so far as that there was any physical collision.

5260. Do you know that there is distinct provision already that if a workman follows another workman about in the street he commits an offence and he can be convicted?—I believe that is so.

5261. And that if a trade union procures that to be done, or sanctions it, the trade union would be liable?—I know that is the law now.

5262. And that is sufficient protection?—Yes; but at that time, as I say, we did not understand the thing quite in that sense.

5263. (*Sir William Lewis.*) But although there was no actual violence they were followed and intimidated?—They were, and ultimately they dare not leave the premises at all; and for their protection we had a special police barrack upon our premises, and we had to provide them with lodgings and to feed and bed them.

5264. Have you had much experience of picketing in strikes?—I consider that it was carried in that case to a very great extreme. I suppose that probably as many as sixty men we brought over were beset, and owing to treatment of one kind and another they left our employment and went away.

5265. Do you believe in what is described as peaceful persuasion?—My view is this: that there cannot be peaceful picketing, and it would seem to me that in one of these proposed Acts those very matters we have been speaking of now would be legalised. They were not legal at that time, but they would be legalised if these Bills became Acts.

5266. (*Chairman.*) What do you say would be legalised?—The besetting of men and treating them in such a way as to make their lives uncomfortable and preventing them following their occupation in a reasonable manner.

5267. There is nothing of that kind in the Bills?—They speak of peaceful picketing, and it occurs to me that supposing there are one or two workmen employed during a strike, those men might be beset by a considerable number of picketers, and as long as they contented themselves with surrounding them, or walking with them, or making certain objectionable observations to them, they, the picketers, might claim they were doing this with a peaceful intent and therefore that they were acting quite legally in doing that. If one or two of these workmen resented any treatment of that kind and that brought about a breach of the peace, it appears to me that the innocent man would be looked upon as being the author of the mischief, and not those who had brought it about.

5268. (*Mr. Cohen.*) Would any magistrate in his senses say that under those circumstances there was only peaceful persuasion? Do you know a single case where a prosecution under the Act of 1875 failed owing to the magistrate being of opinion that the object was merely to persuade peacefully?—Personally I do not; but I am giving you what occurs to me, from my experience of the previous cases, would be the effect of this proposed Act, and what I would rather take to be the intention of it. If the agents of an association desire to communicate anything to a workman, they have all the ordinary means open to them of doing that, and I do not see that they require any special Act of Parliament, or that they should have any special means afforded to them of dealing with the matter in a different manner to that of the rest of the community.

5269. (*Chairman.*) At present under the existing law they have the right to attend the house or place where the workman is, for the purpose merely of communicating or receiving information?—Yes.

5270. Do you wish that power to be taken from them?—I am not asking that anything that exists now should be taken away, but I do suggest this, that there is no necessity whatever for their powers being further increased.

5271. In the Bills it is proposed that it should be lawful to attend at a house or place for the purpose of peacefully persuading?—Yes.

5272. That is adding peacefully persuading to giving and receiving information?—Yes. I would submit that whatever means they have now of communicating their views to workmen is amply sufficient, and if it is only peaceful information they wish to communicate, and so forth, they do not want any more powers than they have now. It occurs to me, looking at this Bill carefully, that it would give them a power they do not possess now and would carry them even as far as this, that they might apparently come on the employer's premises for the purpose of carrying out their wishes.

5273. (*Mr. Cohen.*) So they may in the old Act; that is a defect in the old Act?—I was not aware of that.

5274. I quite agree with you that that ought not to be allowed, no wilful trespass, and no entry into the house or place ought to be allowed, and no entry upon railway premises?—The way I should read it is this, that at present

if men came on to our premises for this purpose we should have the right to remove them as trespassers, but if they have got Parliamentary authority to do this they would contend: "That overrides your right to remove us as trespassers, because we have a right by Act of Parliament to do it."

5275. (*Chairman.*) You express some views on the subject of the provident funds of a trade union, and you say that you think it should be illegal for them to be applied for purposes other than that for which they were subscribed. In the case of a union where provident funds are to be applied primarily to provident purposes but in the event of a strike may be thrown into the war chest, there is no break of agreement towards subscribers, is there?—I should think there was.

5276. Not if they agreed to what I suggest was the basis of the association?—If it is agreed that there are certain funds, and that in the case of a strike they may be all applied to that purpose—if those are the terms on which the money is subscribed, of course there is no breach.

5277. Would you forbid that?—I would.

5278. Would you forbid workmen having an arrangement by which the funds should be applied to provident purposes, supposing the circumstances permitted, and, if it was necessary, that the whole of their funds should go for the maintenance of a strike?—I would.

5279. You would forbid it by law?—Yes, and I will tell you why; these men are making a subscription, and they believe they will be assured in a case of sickness or death that there is something available for them; and if you take that fund and use it for purposes of a strike it will not be forthcoming when the demand comes, and the result will be that if they are sick, or something else, they will be driven on the rates.

5280. But you are assuming that the workmen put an interpretation on the rules which the rules do not bear if they are looked into?—I think you must read that along with our knowledge that the great majority of these men do not go very nicely into these distinctions, and when I had a conversation with my men after that strike and referred to the statement that all the funds were available for strike purposes and if that were so, when the time came for them to make a claim upon this sick fund there would be nothing for them, they said they did not understand that to be so.

5281. (*Mr. Cohen.*) You know, I suppose, by name Mr. Brabrook, who was the Registrar of Friendly Societies?—I know him by name.

5282. A gentleman of great experience?—Yes.

5283. And with a great knowledge, of course, of friendly societies and trade unions?—Yes.

5284. Do you know that he stated that from his experience he is clearly of opinion that workmen who join trade unions know perfectly well that the provident funds may be applied for the support of strikes, and are willing that that should be the case?—Upon that observation I would say this, that I have had probably a much better opportunity of learning the views of the majority of our men, at all events, upon that subject, and I have no doubt the Registrar takes it generally. He would not be likely to get the opinion of any very considerable number of the poorer classes or the less literate classes of men concerned in this matter. I am telling you actually the information that was given to me by considerable bodies of our men with whom I discussed this question.

5285. (*Chairman.*) Do you think that the Legislature should treat the workmen as children or as sensible men?—Of course, I think they have all the right to be treated as reasonable men; but, at the same time, I think it is very right that they should be preserved to a certain extent from subscribing, as in this case, to a fund which will not be available for the purposes for which it was intended, and my own impression is that if this could be brought home to each individual man, and he could vote freely upon it, he would not be a party to subscribing to the funds in the present form.

5286. (*Mr. Cohen.*) You think workmen ought to be protected in this respect just as the Legislature has, in certain respects, protected seamen?—Yes, I look upon it that any provision for sickness or old age is one that ought to be protected to the utmost extent.

Mr. H. Plews.
12, Jan. 1905.

Mr. H.
Plews.

12 Jan. 1906.

5287. (*Sir William Lewis.*) You are speaking from being brought in actual contact with the workmen. Mr. Brabrook, who is admittedly a great authority, would be brought into contact with the officials of various benefit societies, but very rarely with the working men?—That is quite so.

5288. I am speaking with a knowledge of Mr. Brabrook and with a knowledge of the matters that he had to do with?—That would be quite my view, and I have given you my experience as regards actual converse with the men themselves.

5289. (*Mr. Sidney Webb.*) But apart from the views of the men, which may be left as, perhaps, indeterminate, how could you get over the difficulty that the Legislature would naturally feel in actually prohibiting a kind of Association which a number of men apparently do want to join?—There is nothing to prevent the men joining the Association, and there is nothing to prevent them from subscribing any amount they please towards the particular fund that is to be applicable to a strike; they might increase their subscription.

5290. You really suggest that it would be wise for the Legislature to prohibit a society which had a pooled fund?—Yes. I say that where there is a subscription towards sick or burial fund purposes that should be strictly limited to that particular object, and the funds for that should be kept separate, and the members could subscribe to that fund or not as they pleased.

5291. Of course, it would be represented by the workmen that that was putting them under a special disability, and that they wanted to adopt this method, which may or may not be a wise one, but that Parliament was forbidding them to adopt it?—I think they would not be entitled to make that conclusion, because if they did not like to make that provision but would rather have all their funds applied to strike purposes, they could subscribe for those purposes alone.

5292. There is another point. You probably know that Trade Unions fall into two large classes, one of which has a great many of these friendly benefits and the other has none of them, and it was alleged when the second class came up, that is to say a union only for strike purposes, by many of the employers that this was a much more turbulent, aggressive and disagreeable kind of society than the older kind which had these friendly benefits; have you any opinion as to that?—I have not; I cannot say that I have any particular opinion as regards that distinction.

5293. It was said that a union which had a strike fund and nothing else than a strike fund was very apt to make a strike for the purpose of using the fund?—Of course it might be rather likely to be so; but that would be always governed by the amount of the fund.

5294. (*Sir William Lewis.*) Are your workmen in benefit funds pure and simple, or do they generally join funds that embrace the strike purposes as well as benefit purposes?—We have a fund for our men to which the company subscribes largely, but we know also that most of our men are members of certain other funds for sick and burial purposes, and we think it very desirable that these should be encouraged as much as possible.

5295. (*Mr. Cohen.*) At any rate, you will agree with me that the Legislature ought to enable a Trade Union so to separate the provident funds from other funds that the former fund cannot be applied for the support of strikes?—That is exactly what I contend for.

5296. And if that were done and the funds were so separated, you would then be of opinion, I suppose, that those provident funds which could not be applied for the support of strikes should not be made liable for any action against Trade Unions?—That the Provident fund should not be available for payment of damages in a strike action?

5297. Yes.—No, I should not; I do not see that that would affect the full liability of the Trade Union for the consequences of a strike.

5298. Have you quite followed me. I am supposing now that a Trade Union separates its funds in such a way that the provident funds cannot be applied for the support of strikes?—Yes.

5299. I then suppose that the Trade Union has done something which is illegal: would you say that the provi-

dent funds for the support of strikes ought to be liable in such an action to be attached?—In the way of compensation, no.

5300. (*Chairman.*) Then I will ask you this question: supposing you insure your life and if you like you insure it through a trustee so that the trustee is bound to use that policy for purposes which are prescribed and no others, if you incur a liability or if you become bankrupt, what becomes of that policy?—I take it that to the extent to which the bankrupt has the control it would be liable for his ordinary debts.

5301. Or to the extent to which the bankrupt is interested?—In that policy, yes.

5302. Supposing it was a policy to insure an income of £100 a year after seventy, who would have that income of £100 a year? Would his creditors have it, or would he have it?—His creditors would have it, I take it.

5303. Then if a Trade Union commits a tort, what reason is there why the provident funds of that Trade Union should not be liable?—I take it that that provident fund is organised through that association as a matter of convenience and it is a thing to which these men have been subscribing, and it should be there for them when called for. As regards anything else, they have a fund upon which they can draw for the purposes of any strike, and that is the fund which should be liable for any of their wrongdoings. I do not think that the provident fund should be held as being liable to give compensation for damages for a strike.

5304. (*Sir William Lewis.*) Why should a Trade Union be in a better position than an individual, because that is what you are suggesting?—One has this to consider, that when you are dealing with workmen who are making some provision of that kind it is very desirable that it should be conserved as far as possible, and it seems to me that when they have separate funds the funds should be kept for the particular purposes for which they are subscribed.

5305. Then it ought not to be under the control of the union; they might have that separate fund independent of the union?—Yes, but I take it the union is just a convenient mode of working the fund.

5306. Do you think a union ought to bear its responsibilities, and if they have the privileges of an individual that they ought to be under the responsibilities of an individual?

5307. (*Mr. Cohen.*) The fact is that a Trade Union combines two functions. In the first place, it has the same purpose as a friendly society, namely, the administration of provident funds; and, in the second place, it looks after the interests of the working men. It combines two distinct purposes, and therefore you are of opinion that if there are funds which can only be applied for provident purposes those funds ought not to be liable?—That is my opinion.

5308. (*Chairman.*) You suggest, I think, that railways should be put upon the same footing as gasworks under the Conspiracy and Protection of Property Act, 1875, so that a breach of contract by their workmen should be an offence?—I mention it in this way, that it is an idea that has occurred to me, not so much in the interest of the companies as in the interest of the public.

5309. Do you think the public are protected better by the penal arrangement or by the civil liability? In the case of a single workman of course you may say at once that the public has no interest, and the interest of the public lies in the apprehension of a combined strike?—Yes.

5310. But in the case of a combined strike, which do you think is the most efficacious protection against a breach of contract, namely, the civil liability of the Union under the Taff Vale case, or the penal provisions of the Conspiracy Act?—I really would not like to express a very strong opinion upon the subject, but so far as I have thought the matter out, I consider, as I have suggested in my *precis*, their being placed under the same protection as gas and water companies would be probably the best thing for the public, because it seems to me that there is very great analogy between the two things. Gas and water are necessities of life and railways are now a necessity of life, and if you take the case you have mentioned just now, if that scheme could have been carried out of paralyzing the

whole trade of Ireland, it would have been a deplorable thing, and yet, except for public opinion, which might have been set aside if the Society had been strong enough, that calamitous result might have occurred. It struck me very forcibly at the time and has done since, and I thought that rather than that it should be possible to paralyse the trade of the country, there should be some provision to guard against such an extreme course as that.

5311. (*Mr. Cohen.*) Yes, but how ought it to be guarded against? Do you mean by extending the 4th section of the Conspiracy and Protection of Property Act of 1875 to railway companies?—That was my idea.

5312. So that workmen who were guilty of any such offence would be prosecuted?—That is so; it would guard against any of these sudden stoppages—such a one as occurred on the Cork and Bandon Railway.

5313. (*Sir William Lewis.*) You think it would be a deterrent, at all events?—I think so. I must take it when these things do occur there is a great reluctance to summon hundreds of men, and often when they are summoned they are dealt with leniently, and, I do not say wrongfully, but I do not think the present liability has any great influence upon the men as a deterrent against their taking unreasonable action.

5314. With respect to your experience of picketing, am I right in concluding that it generally leads to coercion?—That is the object of it, and that is generally the result.

5315. So that although it may be apparently for the purpose of giving or receiving information, it generally develops into something worse?—I should say that in reading that you would read the “apparently” with a very strong emphasis, the reality being that the design is to lead to the other thing, and it has that result.

5316. (*Mr. Cohen.*) I only want to ask one question: The 4th section only applies to cases where there are wilful breaches of contract?—That is so.

5317. So that by extending that provision to railway Companies you would not affect any strikes which take place without breach of contract?—No, but inasmuch as the contract between railway companies and their employees is that there shall be a certain notice, it would give the company that length of time to make provision to fill their places, which, I may say, I did in the case of that large strike already referred to. Before the time expired I could have carried on the mail service and the major portion of the ordinary service, having had proper notice.

5318. (*Sir William Lewis.*) You would limit it, then, to the question of having notice?—Yes.

5319. So that they would still be able—assuming, for instance, that the notices were ten, twelve or fourteen days, and you found it impossible to provide workmen for carrying on the line—practically to suspend the whole carrying power of the Irish railways at the end of fourteen days?—That would be so, and, I say, that being the case, I am very strong on this point, that no further facilities should be given to these strikers to intimidate or annoy the men I might bring to take their places. I should be a free agent to supply the places of these men who have voluntarily gone out and left my employment without their intimidation or their interference being legalised.

5320. You would abolish picketing then?—I would leave it where it is, and I can deal with it where it is. As we know now, if these men interfere with workers in the streets, and so forth, they are doing a wrongful act and can be dealt with. As I read it under this proposed Bill of Mr. Paulton's they would not; they could practically do what they are doing now, and they would say it was lawful under the plea of being peaceful action.

5321. (*Mr. Cohen.*) I think, if I may say so, with respect, you are right as regards Mr. Paulton's Bill, but have you looked at the clause in Sir Charles Dilke's Bill? I think you will find that one of the objections you have raised will not apply to that clause?—Of course it is almost impossible to say how far this question of peacefully doing a thing can be carried. The intention may be peaceful, but if fifteen men surround another man, saying, “We have only a peaceful intention,” all the harm is done.

5322. But would any sensible magistrate say, in such a case, that the attendance was merely for the sake of peaceful persuasion?—I would be quite prepared to expect that a magistrate, taking that word in conjunction with the

sentence, would say: “The intention of these men was peaceful, and as they have a special Act of Parliament for doing this thing, I do not think I can interfere with them.”

5323. Of course, in framing laws which have to be administered by magistrates, we must assume that the magistrates are sensible men?—I may say that I cannot conceive peaceful picketing.

5324. (*Mr. Sidney Webb.*) I have just one question, going back to an earlier point. You said the custom of your company was that you, whilst willing to consider and listen to any representations by your own men, did not admit to any of these conferences any representative of the union?—That is so.

5325. And you suggested that that, you thought, was the only system by which a business could be carried on with success?—I did.

5326. We have had it given in evidence by some large employers that they go on quite a contrary system. Have you considered the practice on the Tyne, for instance, where the large employers are constantly meeting the representatives of the workmen?—Yes, I could conceive that there might be a somewhat different view taken between an employer and men engaged in works. I am speaking on this point very much from the railway point of view, and you can quite understand that proper discipline and so forth on a railway is an essential to safety.

5327. What made me ask the question was that you rather suggested it as regards any business, but you would confine it to a railway company?—I would rather take it that my view is the result of my own experience in connection with railways.

5328. And that you want rather more stringent discipline in a railway company?—I should think that some of the large employers in London and on the Tyne were better judges of what was right in dealing with their workmen than I was, but on the question of railways I am very strong on that subject.

5329. And that is the view taken by other railway companies?—Yes, generally.

5330. But not by the North Eastern?—They are the only exception:

5331. The North Eastern Company does meet the representatives of the union?—To some extent they do, and we gather not with the best results.

5332. I do not ask that merely for the reason of bringing out that fact, although it is an interesting one, but really to get a little assistance in this way, that you hold very strongly, I gather, that the railway trade union should be liable for any wrongful acts which are done in a strike?—Certainly.

5333. And therefore for any wrongful acts which are done by its agents?—Certainly.

5334. Supposing there is trouble threatened, if you refused to see anybody but your own employees, would you assume that they were the agents of the trade union? I am trying to see how we get over the difficulty on that question of the agency of the trade union?—The trade union have certain recognised secretaries and so forth who are not railway men.

5335. Whom you refuse to see?—Yes. We know that some of our servants are members of the trade union, and we know some of them fill certain local positions, but that does not affect us in the least in seeing them. We make no distinction whatever, and any man in the service, whoever he may be, has the right to state his case, and to come before the board.

5336. (*Sir William Lewis.*) You do not enquire whether he is a unionist or a non-unionist?—We do not.

5337. (*Mr. Sidney Webb.*) You told us of a case where you had met your own men and arrived, as far as you felt, at a reasonable understanding with them, and, notwithstanding that, some weeks afterwards they gave in their notices?—Yes.

5338. What occurred to me, from your description of it, was that you were there dealing with the people who were not leading the movement. Would it not be possibly a way to prevent such an unexpected strike if you were to see the agents of the union which you assert produces the strike?—I told you the fact that amongst the men we saw were the local representatives of the society in

Mr. H. Plews.

12 Jan. 1906.

Mr. H.
Plews.
22 Jan. 1905.

Belfast; and if we had seen certain gentlemen from London, I do not think it would have been a reasonable thing for them to tell us what was the proper wage to pay in Ireland, or that they could have appreciated half as well as we did what the circumstances were which should govern the relations of employer and employed.

5339. I quite agree with you, but if your men are really members of a union, with a central executive somewhere, would it not possibly lead to more safe relations between you if you were in communication with that central executive?—I think not.

5340. Then the next point is—do you think that it ought to be allowed that workmen in Ireland should be bound up with a large organisation in England, the Executive Committee of which you cannot deal with? I am trying to see how to prevent such unfortunate misunderstandings in the future?—I would not like to say that you could prevent any of your men from joining any society they pleased, although the headquarters were away from the country.

5341. Passing from that to another point, you suggested that whereas a workman must be allowed legal freedom to join any society he chooses in his own occupation, you rather thought that it was very improper, and might be made illegal, for him to join a society or a combination with other trades?—I did not put it so far as to say that he might not join another society. The point we were discussing was this: whether if there was a dispute with men of a certain class and you could not agree, men of another class should combine with the purpose of coercing the employer to accede to what was wished by the people with whom there was a difference.

5342. You gave the instance of a signalman, and you said that all the signalmen might feel they had common cause with the signalman, but that the guards, porters, engine drivers, and other classes of railway workers could not feel that they had common cause with a mere signalman's grievance?—That is so.

5343. What I am anxious to see is this: in that case any combination in the nature of an Amalgamated Society of Railway Servants would, in your view, be an improper combination, because the porters and engine drivers would be combining with the signalmen?—Well, there is no objection to their being members of the Amalgamated Society, but it does not follow that the one should take that improper action against the employer in respect of another section.

5344. I think it does follow that if they are members of the Amalgamated Society of Railway Servants, and that society takes up the case of the signalmen or any other class of its members, all the other classes who are in its membership are *ipso facto* combining with that class?—Well, then, if the society as a society takes certain action, I think they should be responsible to the fullest extent for the consequences of their action.

5345. But I rather understood from you that it should be illegal?—I should think it ought to be. The way you put it as to all these men being members of one society does create some difficulty in dealing with them separately.

5346. That is not a unique case; you know probably that in other trades there are different classes in the union?—The drivers are not members of the Amalgamated Society at all.

5347. Pardon me, a large number of them are?—I thought that in Ireland all the drivers and mechanics were members of a separate organisation—that is my impression, but I may be wrong—so that it does not follow that because there is anything wrong with the guards, the drivers or the mechanics should be called upon by their society to act, because they are not in the same society.

5348. Waiving details, you do hold to the principle that you think it ought not to be legal for members of one grade of occupation to combine with members of another grade of occupation about a grievance which is only the grievance of one of them?—I think so.

5349. That would be to make all these large amalgamations, whether for good or evil, illegal. Take the Amalgamated Society of Engineers, which includes fifty different classes or grades of engineering workmen, some of which are in the railway service?—The case in my mind is the case of the engineers. They ordered a strike and

that did not affect in the least the guards, porters, and all that class, and I consider it a thing that should not be legal for all these men to strike on a railway, simply because there was a dispute with another entirely separate section of the men.

5350. Does it not come to this; that you think, apart from the conduct of a strike, a strike ought to be illegal if its object is one which the Legislature does not consider to be the grievance of the particular men who have struck?—Yes.

5351. Supposing the men say, "We feel it to be a grievance"?—If I feel that some workman on the other side of the street has a grievance, I have no right to go and smash the windows of the person by whom he thinks he is aggrieved.

5352. Let us take a more analogous case. Have you not the right as an employer to refuse to employ that person?—Yes.

5353. You have complete freedom to employ a person or to refuse to employ a person for no reason, or even a trivial reason?—Yes, just as a man has the right to come into our employment or not as he pleases.

5354. I do not suppose you do this—in fact, I know you do not—but you would be perfectly legally entitled to refuse to employ any workman who was a unionist or a Home Ruler or a Roman Catholic or a Protestant?—On the strict legal terms of it we should. We are entitled to employ whom we please, that is to say, those we think most suited for our service.

5355. Similarly you think a workman ought to be entitled to refuse to enter into a contract with an employer for no reason, or a trivial reason, or a foolish reason?—If he says, "I am coming into your employment," and the employer says "It must be subject to certain conditions," he must either agree to those or not come into the employment at all.

5356. If he refuses to come into the employment on the ground that you are employing Roman Catholics or Protestants he is at liberty to do so?—Yes.

5357. Similarly, is he not at liberty to do so on the ground that you are employing blackleg engineers?—Yes.

5358. Then is he not entitled to strike on that ground?—Wait a moment; you are dealing with the question of his coming into the employment; if a man said, "I will not come into your service, because you employ men whom I call blacklegs," he is quite right to remain out, but at present we are dealing with the case of men who are in the employment and who have accepted the employment.

5359. Are those men not entitled to hand in their notices for any reasons which would have entitled them to refuse to enter into the employment in the first instance?—Every man is entitled to give in his notice as an individual.

5360. That is what I am trying to get at. Do you make any limitation of that when they in combination hand in their notices?—To the extent I have endeavoured to explain I think there is an objection; that is, circumstances have occurred which have brought about a strike of a certain class, and another body or class enters into a combination to coerce you because of this; you are dealing with a state of things that exists, and which shows what their object is to hamper you and subject you to loss and inconvenience by their action.

5361. Let us take an analogous case. Suppose the individual employer of 2,000 men, let us say, chooses to give notice to some of these men because they are Protestants, or because they are Catholics, or they have got red hair, or for some very trivial and wrong reason, would you suggest that that should be illegal?—No; I do not see that you could.

5362. Therefore the employer would be allowed to exercise an option in employing men, which the men would not be allowed to exercise in refusing employment; that is the difficulty?—At the outset they are both in the same position, that is, the employer can employ whom he pleases and the servant can either be employed or not as he pleases.

5363. And you extend that to a combination of the workmen—that they are equally free?—When they are in the employment another state of things supervenes.

5364. Does equality cease in your view? Are they not to be equally free to give up employment?—They are free.

5365. And you would wish them to continue equally free?—Yes.

5366. But you have just now said you think they ought not to combine?—That is not freedom, because that is a combination for a specific object.

5367. (*Sir William Lewis.*) Will you tell us as to the proportion of men who are in unions in the employment of the railway companies in Ireland?—I am not able to give you the exact particulars now, but shortly after the strike of 1900 they fell down on my own line to about 15 per cent., and it was stated that they had been as high as 70.

5368. It would appear as if these questions were based upon the assumption that the whole of the men in the railway companies' employ were unionists, whereas it is an exception and not the rule?—That is so. I believe there are only about 15 per cent. of our men unionists.

5369. (*Mr. Cohen.*) If that is so you can have no difficulty in supplying the company with any men you require?—Of course with that state of things the risk is enormously reduced as compared with what it was.

5370. (*Chairman.*) Is there anything more you would like to say?—I would just like to make this remark, that we think it very desirable that these associations should

be responsible for their acts, as all other members of the community are, and we say that more particularly because we know from experience that some of the agents of these societies are not always the most discreet men in the world, and this liability no doubt acts as a caution and would lead them to be a little more careful probably than they may have been in the past, before embarking upon any extreme measures of this kind. I do not know, sir, that there is anything more I wish to say.

5371. (*Sir William Lewis.*) Since the strike you refer to when you confined your communications to the workmen without the intervention of any unionists, have you had any trouble whatever in dealing with them?—None whatever.

5372. And notwithstanding the evidence that has been alluded to by my friend, Mr. Webb, as to other employers, you have found it, as regards railway work in Ireland, better to deal directly with your workmen than to communicate with a union or a number of unions that may represent only 15 per cent. of them?—Decidedly so.

5373. And if you had dealt with the union the union could only speak for the number of men in the union, only one-sixth of your workmen?—Yes.

Mr. H. Pews.

12 Jan. 1905.

Mr. CUTBERT LAWS called and examined.

5374. (*Chairman.*) You are General Manager of the Shipping Federation?—Yes.

5375. I hold in my hand a *précis* of the information you have to offer to the Commission?—Yes, I thought if I told you our simple story it would illustrate our point of view better than perhaps anything I could say.

5376. You give us permission to use this statement as we think fit?—Quite freely.

The Statement is as follows:—

The shipping industry has suffered severely from the effects of picketing, in the intimidatory and coercive form in which this practice is almost invariably conducted. Ship-owners have found it necessary to create and permanently maintain an extensive organisation and machinery with the special object of protecting the men employed by them from molestation by union pickets. A brief account of the origin, establishment, and working of the Shipping Federation may throw some light on this phase of the question which the Commission has under consideration. Prior to 1890 there was formed an organisation named the National Amalgamated Sailors' and Firemen's Union, a typical example of what is sometimes known as the "New Unionism." The promoters of this union relied almost entirely upon coercion by means of picketing as a means both of increasing and maintaining the membership of the organisation and enforcing the demands made upon employers in the name of its members. Their policy was to exclude from employment all seamen who did not contribute to the funds of the union, including those who were members of other seamen's organisations which could claim priority of establishment. The methods adopted to bring about the desired result were in nearly every case the same. The men belonging to the "National" Union were "called out" from the vessel in which the old union men or non-union men had shipped, and, by means of an elaborate system of picketing, others were forcibly prevented from taking their places. The ship was then said to be "blocked," and the blockade was maintained until the obnoxious men were either discharged or compelled to join the "National Union," the necessary entrance fees being in many cases paid by the shipmaster in order to avoid the heavy loss caused by the detention of his vessel on the point of sailing. By this means a very large number of seamen were forced into membership of this Union and were obliged to submit to heavy exactions by the officials in the shape of union fees and contributions. In the case of seamen who succeeded in running the gauntlet of the pickets on shore and getting away to sea without having paid the union levy, overt intimidation became a matter of greater difficulty, but a system of what may be not inappropriately described as "peaceful picketing" was recommended, tending to bring about the object in view. The following advice on the subject was published in the Press organ of the union at the time:—

"Every member of the union should constitute himself a delegate, and insist upon seeing his ship-

mate's card. I do not go so far as to advise a whole crew of union men to back out of a ship against one or two mean contemptible curs who choose to be black-legs. I do not think it advisable to do so. My advice is, sail with them by all means, but when you do so, do not forget to make their lives as miserable as you possibly can without jeopardy to yourselves. Refuse to eat with them, drink with them, or speak with them; in fact, have nothing in common with them further than is absolutely necessary in the working of the ship. That's the way to deal with the scurvy knaves who would sell their comrades. The blackleg is the meanest cur imaginable. The shipowner is an open enemy, and we know what to expect at his hands; but the blackleg is a sneaking traitor from our own ranks."

Mr. C. Laws.

12, Jan. 1905.

This extract illustrates the spirit in which "peaceful picketing" would probably be regarded by the average workman, and the futility of expecting men under the influence of such advice to stop short of violence. The influence of the doings and teachings of the union officials was quickly apparent upon the more unruly members of vessels' crews—more especially the firemen—from whom the principal adherents of the union were drawn. Discipline on board ship became daily more difficult to maintain. Officers who gave commands which were distasteful were met in some cases with the threat that they would be reported to the union, the result being a degree of insubordination, seriously menacing the security of life and property at sea.

Concurrently with the later phases of this agitation and "organisation" of seamen, movements of the same character were taking place in connection with dock workers. These movements received a great impetus from the London Dock Strike in 1889. A basis of co-operation between all classes of labour employed in connection with maritime transport was established, under which the workers of one class were "called out" on strike to aid in enforcing the demands made by workers of another class, in each case a powerful system of picketing being relied on to prevent other men from coming forward to supply the places of the strikers. Encouraged by the success of their operations, the promoters of the seamen's union referred to conceived the plan of bringing captains and officers of vessels under their control by compelling them to join an organisation of which the secretary of the Seamen's Union was (to quote the Rules) "to have the entire working and control and supervision as effectually as if he were the acting manager of a large business." In pursuance of this plan vessels were "blocked" until their captains agreed to join the organisation in question.

It then became evident to shipowners that if they were to retain the control of their business and prevent the shipping trade from passing into the hands of their foreign competitors, they must organise resistance to an oppression which had become intolerable. In the result the Shipping Federation was formed in August 1890.

Mr. C. Laws. The first duty of the Federation was to take measures to secure protection from union pickets for men who were willing to work for its members on what were known as "free labour" terms. The conditions under which the shipping trade is conducted render it particularly easy of attack. The detention of a vessel ready for sea is a very serious matter for the owner. Foreign-going seamen must be engaged and discharged in the presence of Government officials, at offices known as mercantile marine offices. The pickets had, therefore, only to concentrate their attention in the first instance upon these places. Union delegates, whose chief qualifications for the task were the possession of weight and muscle, were posted about the approaches to these offices to demand from all seeking employment the production of the union "card," or, failing this, the money necessary to procure one, and the seaman who was unable or unwilling to pay up fared badly at their hands. Even ships' officers were assaulted who declined, on the demand of the delegate, to dismiss men to whom they had given a promise of engagement, but who, on attending at the shipping office for the purpose of signing their articles of agreement, were unable to satisfy the union officials that they were "in compliance," or, in other words, fully paid-up members of the union. By the employment of detectives to watch the shipping offices this system of boycotting and intimidation in the guise of peaceful picketing was laid bare, and it was made clearly manifest that neither the person nor the property of the seaman was safe if he attempted to ship, except through the medium of the union officials. The first step taken by the Shipping Federation to counteract this evil was to establish registry offices where seamen might enrol themselves as willing to work alongside of other competent men, whether members of a trade union or not, and where captains, officers, and engineers might select their crews under police protection, free from the intimidation of union delegates. Thirty-six such offices are now in existence at the principal ports of the Kingdom. Each seaman who signs the register obtains a certificate of registration, commonly known as a "Federation Ticket": (of which I produce a specimen) in proof of his having done so. To induce men to face the risk, which registration at these offices in the early days involved, they were guaranteed a preference of employment on vessels owned by members of the Federation, and in addition measures were taken to secure for them protection—which had been previously wanting—from intimidation and violence. The shipping offices being closely beset by pickets, in many cases permission was obtained for articles to be signed on board ship. Men were conveyed to their vessels either secretly, or, if openly, under police escort, and the vessels in turn were guarded by police at the cost of the Federation. This change in the method of engagement proving efficacious as a means of enabling seamen who desired to do so to escape from the pressure of the pickets, an attempt was made to coerce shipowners into an abandonment of this procedure by a threat of a strike of all labour connected with the working of their vessels. The plan was to deal with the various firms in detail, and three of the most important lines of steamers sailing out of London were first selected for attack. The following notice was consequently issued by "The United Labour Council of the Port of London":

"To all whom it may concern.—The Shipowners of London, having broken through the custom of shipping their crews at properly constituted shipping offices, and decided to sign on board to the detriment of unionism generally, the above Council have decided to call upon workmen represented here to abstain from doing any work either direct or indirect that will conduce to the sailing of the vessels of Messrs. Shaw, Savill and Company, New Zealand Shipping Company, and British India Steam Navigation Company, until they give an undertaking that, for the future, they will sign and discharge their respective crews at the regular shipping office provided by the Board of Trade, and sign no other than members of the National Amalgamated Sailors' and Firemen's Union."

This attempt failed, in common with other attempts, to break down the organisation established by the Federation made at various ports in the country, and spread over a considerable period of time.

In dealing with strikes of dock workers the Federation adopted the same steps as in the case of seamen, that is to say, offices were established for enrolling the names of non-Union workmen or Union workmen willing to work

on free labour terms, and no expense was spared to secure the protection of these men while at work. It has been found that no measures which can be taken by a private organisation are sufficient to enable workmen who have been brought to the scene of a strike to seek accommodation in the town, and to pass to and from their work and their houses in the ordinary way. Local police resources are quite inadequate for this duty, owing to the advantage which is taken by pickets of Sub-section 2 of Section 7 of the Conspiracy and Protection of Property Act, 1875, to attend at or near a workman's residence or work with the professed object of obtaining or communicating information. Even during such strikes as the Hull Dock Strike of 1893, where large bodies of outside police were drafted into the town in aid of the local constabulary, supplemented by military drafts and gunboats in the river adjacent to the docks, it was found impossible to cope effectually with the lawlessness of the pickets, and it became necessary to house and feed the workmen, numbering several thousands, by whom the strikers were replaced, in sheds and on depot ships in the various docks where the forces brought in for their protection could be more conveniently concentrated. In many cases the seamen on incoming vessels were at their own request, secreted on board in the holds or saloons until their vessels were ready to sail, on their representation that if they were discharged in the ordinary way they would be "compelled to strike" in sympathy with the dockers. In fact, in only one strike out of some hundred and fifty with which the Federation has been concerned has it been found possible for the workmen engaged to fill the places of the strikers to go to and return from their work in the normal way. In this case the circumstances were unusual. The members of the Union affected did not very largely outnumber the newcomers, and there were several available ways of leaving the wharf where the work was carried on. In consequence, picketing in force at any particular point was not possible. Several bad assaults, however, took place, where individual free labourers were fallen in with by the pickets.

The strongest evidence of the inadequacy of the present law and its administration to secure the personal safety and freedom, which are the innate right of every citizen, is to be found in the fact that the Federation is obliged to maintain in constant readiness for use during strikes a depot ship, fully equipped for the reception and housing of five hundred men, capable of being moved to any point required, so that the men may be lodged and protected in close proximity to their work, and so saved from the inevitable intimidation to which they would be subjected if they attempted to return to their houses in the ordinary way. With the same object, bedsteads, bedding and other housing and cooking equipment for five thousand men are always kept in store, it having been found in practice to be impossible to employ men during a strike without providing for their accommodation within the docks, owing to the intimidation by means of picketing which invariably takes place.

From the foregoing statement it will be understood why the Shipping Federation—which represents approximately nine-tenths of the sea-going tonnage of the Kingdom—or an invested capital of nearly £200,000,000 (two hundred millions)—is opposed to any modification of the existing law with the object of conferring increased powers of picketing upon Trade Unions, or of lessening their liability for the wrongful acts of their officials. With reference to the specific proposals contained in the Bills recently presented to Parliament, (*Vide Appendices, pp. 7 and 8*), it is contended that it is unreasonable to claim for acts done "in contemplation or furtherance of a trade dispute" any special sanctity or indulgence absolving the doers from due responsibility for their actions, and, similarly that there is no reason why the law of conspiracy should be abrogated in favour of persons acting on behalf of Trade Unions. So far as the proposed prohibition of actions at law against Trade Unions is concerned, the past history of these organisations is not such as to warrant their being placed in a position of superiority to the law as it affects other bodies. The effect of this proposal would be to confer upon Trade Unions great power without responsibility, which cannot be good policy. On the other hand, the result of making Trade Unions answerable for their agents is likely, in the long run, to immensely improve the position of these institutions by leading to

the selection of careful and capable officers, who will be temperate and discreet in action, thus securing for the Unions an increased measure of confidence on the part of employers.

With regard to what is termed the "legalisation of peaceful picketing," the experience of the Federation during fourteen years is that the conditions produced by a strike are so abnormal—amounting almost to civil warfare—that "peaceful picketing" is an ideal which is practically impossible of realisation. I propose to cite an instance which occurred during a strike last November, which is typical of what may always be expected to take place under similar circumstances. The legitimate objects likely to be attained by peaceful picketing are insignificant compared to the vast scope for interference with personal liberty which it opens up. So convinced a Trade Unionist as Mr. George Howell, the well-known writer on labour questions, admits that—

"Picketing is no longer necessary in the sense in which it was before the general use of newspapers, for the obvious reason that notice can now be given by means of paragraphs or advertisements which will reach the remote corners of the United Kingdom in the course of a few hours, and further, several of the leading trades have special facilities for circulating information throughout the entire country."

In discussing the question whether the practice is "useful as a means and advisable," he states—

"Generally speaking, the reply must be in the negative, for it seldom effects the object which the Union has in view. If men are determined to accept work on the terms offered, all the pickets in the world will not stop them."

It may be added that one of the objects of picketing, which is often urged as a justification for the practice, is that it is necessary in order to undeceive men who may have been engaged upon the representation that no strike or dispute was in existence, and who would otherwise have withheld their services. A moment's reflection will show that there is no temptation to an employer to engage a workman upon any such false representation. It would be quite impossible to maintain deception on such a point, or to retain the services of the workman who found he had been deceived. So far as the Shipping Federation is concerned, apart from the fact that owing to a cheap Press the existence of a strike becomes at once common knowledge, workmen taking service under the Federation, with whose objects they are perfectly familiar, are always informed that a strike is in progress, and the contract of service which they sign bears an unmistakable indiction to that effect in bold characters. The mere presence of large bodies of pickets at or near a place where a workman resides or works or happens to be, even though professedly for the purpose merely of obtaining or communicating information, in itself becomes a menace and a terror to the workman, and constitutes an intolerable infringement of his rights and liberties. It enables effect to be given to the Trade Union practice known as "spotting," the purpose of which is to identify men who may be working in the place of strikers with the object of wreaking vengeance upon them at the first opportunity when this can be safely accomplished. The fact that the Conspiracy and Protection of Property Act, 1875, specially removes such attendance from the category of watching and besetting renders the latter offence extremely easy of accomplishment. For these reasons it is considered that far from the existing powers for peaceful picketing being extended, Sub-section 2 of Section 7 of the Conspiracy and Protection of Property Act 1875 should be repealed, as its effect is practically to allow the offences of watching or besetting and persistent following to be committed with impunity, and to afford a convenient cover for acts of violence and intimidation.

5377. You speak in this memorandum of the shipping offices under the Board of Trade being beset by the sailors or men out of work?—Yes.

5378. And therefore you established offices of your own; what was the difference between these two offices? Could they not beset the one just as they beset the other?—They could indeed to a very great extent, but, of course, you are able better to protect your own premises than the premises of third parties. We could always get police to protect our own premises, whereas the Board of Trade

would have had to be applied to in the first instance to protect the mercantile marine offices.

5379. I suppose you are familiar with the law of the Conspiracy Act with regard to picketing?—Yes, I have a rough knowledge of it, as far as a layman may presume to know anything about it.

5380. As to these people who beset the shipping offices, do you hold that they were acting contrary to law or not?—Their actions were in most cases contrary to law; they were besetting, of course, in the first instance, and then they were also intimidating and coercing the men. I should have said myself that the mere besetting of the offices was contrary to law, because they were there for more than the purpose of obtaining or communicating information.

5381. If it was contrary to law why was there no interference with them?—That, of course, is our great complaint; the law is not sufficient, or, at any rate, the administration of the law is not sufficient.

5382. Which is it?—I think both; it might be said that the administration was not sufficient, but I think a law to be adequate should be a law that can be administered properly and easily by the authorities.

5383. (Mr. Cohen.) Why cannot it be?—It is not in practice.

5384. Why not? Give us an instance?—I think you have an analogy in the motor laws—

5385. No, please; I want to know an instance with reference to strikes.

5386. (Sir William Lewis.) An instance where the law has not been administered as you consider it ought to be?—I think in all these cases where the shipping offices were beset by pickets.

5387. (Mr. Cohen.) Were there prosecutions?—Very few, owing to the great difficulty of obtaining evidence.

5388. That will always be the case however stringent you make the law?—I do not agree there.

5389. (Chairman.) At present besetting, or, at all events, attending at the house or place where the workman is for the purpose of receiving or communicating information is lawful, is it not?—So I understand.

5390. Was the reason why these persons who were besetting the shipping offices were not interfered with, that it was thought they might set up the plea that they were communicating or receiving information and that it would be very difficult to show any thing unlawful?—Undoubtedly that would have been the case. No doubt they were there for the *bond fide* purpose of receiving and communicating information, but they were there in addition for other purposes, and it is very difficult to dissociate the two.

5391. (Mr. Cohen.) Have you known cases in which prosecutions have failed where there has been intimidation but where the magistrates acquitted a prisoner or defendant because they believed that he was there only for the purpose of giving or receiving information?—I cannot recall any at the moment; but the fact that he is able to be there for that purpose makes it extremely difficult to initiate a prosecution at all or to get the police to move.

5392. (Chairman.) I will put the question in rather a different form: Have you ever known of any case in which a prosecution has not been taken on account of the difficulty of proving that the men were there for some other purpose than receiving or communicating information?—That has practically been our position throughout.

5393. Supposing there were two hundred persons in front of the door of the House of Lords there, how would you be able to select and prove a case that a man was there not for the purpose of receiving or communicating information?—That is our great difficulty; you cannot do it. What happens is, that a seaman comes into our office blood-stained, having been knocked about and that sort of thing, and he says: "I have been set upon near the shipping office and knocked about," but he cannot, as a rule, identify his assailant, and in that kind of case it is very often one man against several. You cannot rope in the whole of the men who were there because each man would say: "I was there for the purpose of giving or receiving information."

Mr. C. Laws.
12 Jan. 1905.

Mr. C. Laws. 5394. (*Mr. Sidney Webb.*) The difficulty arises from the permission to beset for the purpose of giving information not being limited in number: is not that your point really?—That would simplify the matter considerably; there would be much less intimidation.

12 Jan. 1905.

5395. (*Chairman.*) But it would not remove the difficulty altogether?—No.

5396. Supposing it was four persons, you would see four persons there, and they are always four persons. How would you prove that any one of those persons was there, not for the purpose of communicating or receiving information? Could he not always make the excuse that he was there for that purpose?—Yes, and four trade union pickets are much more terrifying than four ordinary citizens, they are known to have the power of the union behind them. One man with a camera sent by the union to take photographs of all men going in and out of the works is a very terrifying individual. We ourselves have found the camera a most useful instrument, and when we have tried to snapshot the pickets they have very often cleared out.

5397. (*Sir William Lewis.*) Would anything less than the abolishing of picketing do?—Nothing less, and that is why we ask for it.

5398. (*Chairman.*) You ask for the repeal of the last paragraph in section 7 of the Conspiracy and Protection of Property Act, 1875?—Yes.

5399. That is clearly your recommendation?—Yes. And I would just like with due deference to drag in my analogy of the motor laws, if you do not object, and it is this: you might say with equal force that the law was quite sufficient for the protection of the public against racing or "scorching," or whatever the evil is with regard to motoring, and so it was, but the difficulty lay in the administration. Therefore the Legislature stepped in and said to motorists, "You must be numbered and licensed, you must carry a tail lamp and you must under no circumstances go at more than twenty miles an hour"—not because going at twenty miles an hour is in itself dangerous, but if you go at that speed even when there is nobody within miles of you, and a policeman sees you, you are fined. The law was ample before, but the difficulty was the administration of the law, and by these regulations they have made the administration easier, and similarly we say that if it was made an offence to watch or beset for any purpose whatever, the administration of the law would become easier, not that the action of watching and besetting is necessarily in itself wrongful or harmful.

5400. I suppose your business is a particularly difficult one to protect in the time of strike?—Extremely difficult.

5401. You have a very large number of men out, numbering hundreds?—Yes.

5402. And the premises are so scattered?—That is our great difficulty.

5403. And you have found in every strike that it is really impossible for the black-legs, to use the short phrase, to move about without great danger, and it is necessary to confine them within the premises?—We have found it necessary to have this depot ship (*exhibiting a photograph*), and I think business men would not go to that expenditure if it was not necessary.

5404. Do you consider, therefore, that the shipping trade is a fair instance of what workmen will do in time of strike if there is no special police protection? Bearing in mind that your premises are practically without police protection or have only inadequate protection, and the state of things is, that workmen taken on to work in the time of strike cannot lead the ordinary life of citizens, do you consider that the shipping trade exhibits a fair instance of what would take place in all trades in case of strike if there was not adequate police protection?—Yes. In all cases where employers seek to replace the men on strike.

5405. Have you any complaint to make of the police in these matters?—None of the police personally; our great difficulty is to get sufficient police. It is very difficult to get police before there has been bloodshed, and once there has been bloodshed it is too late in a sense as the whole neighbourhood is then intimidated.

5406. Have you any complaint to make of the magistrates?—Magistrates are as magistrates always are—they vary; some have labour leanings, and you may always rely upon them to give a decision in favour of the working men, while some may be the other way.

5407. Has that been a marked feature in the leanings of the magistrates?—It is rather a marked feature, and especially in connection with seamen. Everyone has a sympathy with "Jack," I think, and in my opinion he is rather a favoured individual in that way.

5408. I am going to ask you not whether you think it reasonable or unreasonable, but whether you think it should be penal or actionable for unionists to strike against free labour men?—I would not like to go as far as that.

5409. Would you make it penal or actionable for various trades to co-operate in assistance of one another in time of strike?—I do not think you could go the length of making it penal or actionable.

5410. Would you make it penal or actionable to boycott as you have described in your Memorandum—in the paragraph you have reproduced from the Press?—I do not think these men are there asked to do anything unlawful; they are asked to do something which is very unpleasant.

5411. And you think that in itself should not be unlawful?—I do not think so unless it results to the man's material damage in some way. I may add that I did not quote the paragraph referred to as indicating a species of coercion which could be prohibited by law, but as illustrating the spirit in which peaceful picketing at its best is regarded by workmen, and the futility of expecting them to confine themselves to persuasion in the case of men whom they are taught to regard—not as erring fellow creatures who may be amenable to reason—but as "curs" and "traitors."

5412. (*Mr. Cohen.*) I have only a few questions. You have made several statements here about the London Dock Strike and about the conduct of workmen. You gave evidence, I think, before the Royal Commission on Labour in 1892?—Well, I read a statement of evidence that had been prepared by my father, who happened to be taken ill when his turn came, and I simply went there to read it; it was not my own evidence.

5413. Some of those statements which were read by you before the Royal Commission, and which are very similar to some of the statements in this paper which you have handed in to us, were contradicted by Mr. Clement Edwards and Mr. Wilson before the Royal Commission?—I think my evidence was in contradiction of Mr. Wilson's and Mr. Edwards'; they came first in point of time and mine was rebutting evidence.

5414. You desire to see Trade Unions liable for wrongful acts which they order to be done, or which their agents do within the scope of their agency?—Yes.

5415. You also wish to prevent, as far as it can be done, wrongful intimidation?—Yes.

5416. When you speak as you do in this paper of boycotting and intimidation, you do not mean to say that boycotting in the ordinary sense of the word can be prevented by legislation? I mean all these things which are described in that organ of the union and which you have set out on page 1 of your Memorandum, are things which, although they may be cruel and unreasonable and immoral, cannot be prevented by a positive law?—No, you cannot compel one man to speak to another or to be pleasant to another, I suppose.

5417. But wrongful intimidation causes a person to fear that injury will be done to his personal property?—Yes.

5418. And wrongful intimidation you would put down with a firm hand?—Yes.

5419. If that were done and if Trade Unions were made liable for wrongful acts done by the executive or the agents of the executive, then all that you require would be accomplished, would it not?—I think if we got rid of intimidation we should be reasonably satisfied.

5420. And your real objection to picketing (I quite appreciate the difficulty of proof) is that it tends to wrongful intimidation?—Yes.

5421. (*Mr. Sidney Webb.*) Towards the latter part of your paper dealing with the liability of Trade Unions and the responsibility of Trade Unions for acts done by them you suggest that there is no reason why they should be put in a favoured position?—Yes.

5422. At the present time you know Trade Unions are subject in some respects to disabilities. If you put Trade Unions in the same position as other groups of people with regard to liabilities would you be prepared to put them in the same position as other groups of people with regard to making contracts?—One would like to think about that.

5423. My point is that your argument is that with regard to responsibility they ought to be put in the same position as other people; would you equally press that argument if they were not to be put in the same position as other people with regard to privileges?—I do not think I should deny them equal rights with other bodies.

5424. (*Chairman.*) Different bodies have different rights, is not that so?—Yes, according to their constitution and objects.

5425 (*Mr. Cohen.*) I suppose your Federation has certain rules?—Yes, we are registered under the Companies' Acts. We are a limited liability company, and I should be very happy to put in a copy of the Memorandum and Articles of Association; I will send them up. (*The Memorandum and Articles of Association were subsequently sent in.*)

5426. (*Chairman.*) Have you anything else you would like to say to us?—I did propose to read the account of a picketing case that occurred quite recently. It has the merit of being comparatively fresh, if it is not taking up too much of your time. It took place at Maryport in November last, and is the last strike but one we have been engaged in. This is an extract from the *Whitehaven News* of the 17th November last, and it is headed "The Dock Strike at Maryport. The Workington Incident. Heavy Fine for Assault. At the Workington Police Court on Wednesday, William Milligan (35), dock labourer, was charged with assaulting James Harvey, dock labourer, on the 6th inst. The matter arose out of the Maryport dock strike, on the occasion when complainant and others intended to proceed from Workington to Maryport with the object of securing work at Messrs. Cammell, Laird & Co's sheds. Mr. St. George Curwen represented the complainant and Mr. J. D. Mason defended. Defendant pleaded guilty. Mr. Curwen said his client, on the Sunday afternoon in question, with other men had been engaged by Mr. Henderson to go to Maryport to work at the docks. They were to meet Mr. Henderson at the Low Station and proceed to Maryport by the 5.30 p.m. train. Harvey, at five o'clock was at the station and looked about for Mr. Henderson, but as he did not see him he walked to the bottom of Station Road; whilst there he saw four or five men, who called out, 'There goes a blackleg.' A man named O'Neil was with Harvey, who made off. Then a man named Pearson came up to Harvey and asked him if he was a blackleg, and if he was going to Maryport. His client said he was, and with that Milligan clenched his fist, and struck him a blow in the face. Whilst Harvey was on the ground Milligan again struck out at him and kicked him. It was an absolutely unprovoked assault and it was necessary for the Bench to bear in mind that Harvey was amidst a hostile crowd. He could not, therefore, protect himself. One would have been inclined to think that after the recent warning and the result of the trial at Carlisle this sort of thing would have stopped, but apparently it was not the case. He asked, therefore, that the punishment by the Bench would make it that repetition of the offence would not at least be tolerated in Workington." Now this is the defence, to which I would like to draw your attention: "Mr. Mason said although Milligan had pleaded guilty, the facts of the case were not such as had been limned by Mr. Curwen, and he couldn't allow the powerful glass he had used, distorting and magnifying the occurrences, to rest as represented on the minds of the Bench. The circumstances were these: There had been a meeting that day in the Labour Club in Oxford Street, and delegates were present from Workington and other towns. The delegates, after the meeting was over, were going home both ways in the afternoon. Milligan, unfortunately for himself, accompanied the other delegates to the station to go off by train. When they arrived at the station they saw a bunch of men who were going to Maryport. A discussion arose between his client

and Harvey, which finally became so heated that Milligan, *Mr. C. Laws.* like a fool, struck Harvey. He, however, denied that he kicked him. His temper got the better of him, and he 12 Jan. 1905. was sorry for it. It would not occur again. This was not the place to discuss the relationship between capital and labour. But he would ask them to remember it so far as it affected the actions of a man. Let a man, for instance, do anything which was calculated to affect the pocket of the capitalist, or to deprive him of his capital, and there was no man so bitter as the capitalist, and there was no time at which he was more liable to quickly lose his temper. The workman's capital was his labour. In the opinion of his client something had been done which tended to deprive him of his labour. He was further provoked by the discussion, and it was in the heat of the moment that he struck the blow. He therefore asked the Bench not to treat it as if it were a premeditated assault. Milligan was a well-known Rugby football player. He believed he had played for the county, and was trained therefore not to lose his temper, but he did lose it, and, as he had said, he was sorry for it. He was willing that he should be bound over in proper recognisances to keep the peace. Mr. Curwen said his instructions were that no discussion arose between the two men before the blow was struck. (*The Rev. A. F. Curwen.*) Do you admit the kicking? (*Mr. Mason.*) I admit Mr. Curwen's statement, but not the kicking. Mr. Curwen then called the complainant, who said whilst he was on the ground someone kicked him with his foot, but he could not swear it was Milligan. There were, however, some standing round who could swear to it. He had two witnesses. (*Mr. Mason.*) There was some talk before? (A.) Yes, he asked me if I was going to Maryport and I said 'Yes.' (*Mr. Mason.*) There was a heated discussion before? (A.) Not that I know of. (Q.) There were three or four other men there at the time? (A.) Yes. William Black, Ramsay-Brow, dock labourer, deposed he saw defendant strike Harvey, and when he was down he took a rush and seemed to kick him. He thought he did kick him. Afterwards there was blood on Harvey's face. (*Mr. Mason.*) You don't mean to say that Milligan was responsible for the whole thing?—(A.) No. (*Mr. Curwen.*) Did you see anybody else kick him? (A.) No. Mr. Mason called Milligan, who denied he ever kicked Harvey. (Q.) Was there a crowd around at the time? (A.) Yes. (Q.) You struck him? (A.) Yes. (Q.) There was some discussion before? (A.) Yes. I asked him if he was going to Maryport to work and he said, 'I'll work for 7s. a day before I'll hunger. There's two pints of beer and a half ounce of tobacco. I think that's all right.' I said, 'If you men stayed away it would be 14s. a day.' (*By Mr. Curwen.*) He gave me every provocation to strike. If he had been as big as me he would have struck first. (*Mr. Curwen.*) That is perhaps why you struck first? He is much less than you? (A.) Oh no, not at all. (*Mr. Mason.*) You are sorry you struck him? (A.) Yes. (Q.) Will it occur again? (A.) I am sure it won't. *This was the case.* (*The Chairman, Mr. Peter Iredale.*) We think it is a serious case, but we will deal leniently with you. You will be fined £4, including costs."

5427. (*Mr. Cohen.*) What do you think this long story proves?—You have here the case of a man of mature age, thirty-five, apparently a responsible man, a delegate of his union, just coming from a meeting of his union, and he meets this unfortunate free labourer, who happens to be an undersized man and in the minority. There are several other parties there. They open up with peaceful picketing, "Are you going to Maryport?" and the answer is, "Yes, I am getting 7s. a day wages, which I think good wages," and then the picket says, "If you stayed away it would be 14s."; and then follows the attack.

5428. But the magistrate did not think it was peaceful picketing?—No, I am showing you how difficult it is to have peaceful picketing without having it followed by assaults and violence. What I wish to convey is that if the defendant, in this case a responsible trade union delegate, a man of whom it was said that he had been trained to keep his temper, if such a man could not confine himself to peaceful persuasion, how unreasonable it is to expect that the ordinary workman will restrain himself from violence under similar conditions.

5429. (*Mr. Sidney Webb.*) But there was no watching or besetting in that case?—He was attending at the place where the workman happened to be.

Mr. C. Laws. 5430. But it was a chance meeting which led to a blow, which I do not justify, but surely it is not what is usually defined as picketing.

12 Jan. 1905.

5431. (*Chairman.*) Be it so, does it not affect the question of picketing in this way: it bears on the question of whether it is advisable that the law should permit workmen on strike or not on strike to watch and beset a house even for the purpose nominally of giving or receiving information?—That is precisely my point, and what happened here would happen in hundreds of cases.

5432. (*Sir William Lewis.*) And does happen?—Yes. In this case it was a local man who recognised his assailant, but in nine cases out of ten we import the men from another district, so that one of these men being assaulted could not recognise the assailant.

5433. (*Mr. Cohen.*) That man was identified?—Because it happened to be a local man whom he assaulted, a man who happened to know him.

5434. If you cannot identify the man then you cannot prosecute the man who is besetting?—But the police would surely take action at once. If you point out a group of men besetting the dock gates the police say that they have the right to be there and they will not move them on; but if you could point out to the police that by so doing the men are committing an illegal act they would move them on at once. It is just the difficulty of securing the proper administration of the law.

5435. Then the policemen are badly instructed?—That is quite possible, and so long as they are under municipal authorities they probably will be.

5436. (*Mr. Sidney Webb.*) Have they been better in London where they are not under municipal authorities?

—Yes, much better in London, and in Dublin best of all where you deal direct with the Castle.

5437. You have found that the London police have given adequate protection in strikes?—No, they have been unable to give adequate protection, but they have done their best. I do not think any police could give adequate protection, the circumstances are so difficult. You must reinforce your police, and the authorities are very slow, naturally enough, to incur the expense and bring in the military, and that is the only way you could do it. We cannot get the men to and from their work, and we keep up this ship and stores of beds and bedding, so as to be able to locate them near their work.

5438. (*Sir William Lewis.*) You do not suggest anything short of the abolishment of picketing altogether?—I am perfectly convinced that nothing short of that would meet the situation, and even then we shall have great difficulties to contend with. That is the result of our experience of fourteen years; it is not theory but based on practice.

5439. (*Chairman.*) Your action bears that out because you have those movable works?—Yes, and the employers would not go to all that expense if intimidation were a mere chimera of the imagination.

5440. Have you anything more you wish to say?—I would like just to hand in a specimen of the Federation ticket along with a form of contract shewing the conditions of employment of the workmen taken on by us (*handing in the same*). You will observe that it is plainly stated in the contract that a strike is pending or anticipated, so that there is no need for picketing on that account.

TWENTY-EIGHTH DAY.

Wednesday, 5th April, 1905.

PRESENT.

The Right Hon LORD DUNEDIN OF STENTON (*in the Chair*).

Sir GODFREY LUSHINGTON, G.C.M.G., K.C.B.
ARTHUR COHEN, Esq., K.C.

SYDNEY WEBB Esq., LL.B., L.C.G.

HARTLEY B. N. MOTHERSOLE, Esq., M.A., LL.M. (*Secretary.*)

Mr WILLIAM ELLIS called and examined.

Mr. William Ellis. 5441. (*Chairman.*) You are General Secretary of the Provincial Free Labour Association, Glasgow?—Yes.

5442. You have sent to the Secretary a *precis* of the evidence which you wish to give to the Commission?—Yes.

5443. Do you give your permission for that to be incorporated in the proceedings of this Commission?—Yes.

The Statement is as follows:

"In examining the evidence submitted before your Commission by Mr. W. Collison, General Secretary, National Free Labour Association, I entirely differ from the witness in that portion of his evidence relating to the work he claims to have been carried out by his association previous to the Taff Vale decision and since.

In his evidence Mr. W. Collison stated his association had "registered 500,000 workmen belonging to 150 different trades."

The registers of the Chief Office and its five branches—Gateshead, Manchester, Leeds, Cardiff, and Glasgow—do not show any such registered membership; the figures given being greatly exaggerated and fictitious.

The claim to have "been completely successful in no less than 500 pitched battles with aggressive trade unions is absolutely untrue.

In January, 1904, I refused to distribute a printed leaflet on "Some principal strikes defeated through the agency of the National Free Labour Association." This leaflet

was intended for distribution to employers, to obtain financial assistance, and contained the names of some sixty strikes. Claims were made which could not be substantiated, and it was posted from the chief office by Mr. Collison to Scottish employers, with an appeal for financial support. One of the Scottish Engineers' Employers Associations officially objected to it, and advised its withdrawal in a letter addressed to Mr. Collison. I have important correspondence on this claim to submit with the circular in question, before your Commissioners, when present before them. The claim that "five of its members have been killed, and 250 seriously injured," are perversions of the truth. None of its members have been killed during strikes, though some have been injured, few seriously.

The annual reports of the National Free Labour Association do not show any such records of work done, killed, and injured, as stated before your Commission by its General Secretary, Mr. W. Collison.

The statement that the National Free Labour Association "prosecutes those who threaten, and at the outset, before undertaking any strikes, stipulates that the employers should provide board and lodgings in their works, for the Free Labour men on their arrival" is not corroborated by facts,

I know of no prosecution undertaken by Mr. Collison on behalf of his association against any striker, pickets, or others that threaten during strikes, though personally I have taken part in many strikes, when threats, and

sometimes violence have been resorted to, the Association contenting themselves by posting notices in their office windows, warning pickets, and offering a reward of £10 to those who give information which will lead to the conviction of those who have assaulted their members during strikes, but the reward has never been paid.

The notice is for show purposes, the association leaving it to the police to protect the free labour workmen, and to summarily deal with intimidators.

The greater portion of the strikes taken part in by the National Free Labour Association are of small dimensions, and the workmen supplied by it are only accommodated on the premises of the employers affected in exceptional cases.

The association has not a staff of "trained emergency men," for whenever I have, acting under instructions, made application to it, my requirements could not be met, and I have had to supply.

Mr. Collison, in his evidence states, "It is estimated that no less a sum than £285,000 has been spent by employers in eight years 1893-1901 in protecting members of the association from trade union pickets during strikes."

This estimate is very questionable, the authority being Mr. Collison, who possesses no facilities for obtaining the information he imparts. The affected employers who employ labour through his association during strikes, do not nor either are they called upon to furnish returns of their expenses to him.

The balance sheets of his association do not vindicate this estimate, which is his only criterion.

Mr. Collison's statement that, "since the Taff Vale decision, the association had fought some twenty-five large strikes, at a cost of little over £4,000 to protect free labour men from the violence of the pickets" is untrue. No such number of "large strikes" in the period named has been conducted by his association, and its balance sheets for the years 1902-03-04 show the actual expenditure for supplying workmen, including fares and other expenses, to be £5,891 11s. 11d. To this amount has to be added the employer's expenses, on which Mr. Collison is silent. If he can give the estimates for the eight years, 1893-01, he ought to supply reliable information for the three ensuing years.

Mr. Collison further stated that "during the recent strikes at the Medway Steel Works, Rochester, Jarrow Chemical Works, and the Covent Garden Porters' strikes, free labour men were marched through the streets in a body, right through the crowds of strikers and their sympathisers, without being even booed at."

The first and last named strikes I was not present at, but replaced most of the 200 workmen on strike at the Jarrow Chemical Works, Jarrow, from Glasgow and Newcastle districts, and certainly never saw anything approaching a crowd of strikers, or sight-seers, in connection with that strike, though I had the supplying and conveying of the free labour men to the affected works.

Mr. Collison states he has "had more experience of strikes than any other man in this country." This

experience has not been obtained from personal observation of strikes, but from the reports furnished him by branch secretaries, who severed their connection with his association.

During the Bristol tramways strike he showed despicable cowardice, being afraid to stir out at any time without a number of others to protect him, which was unnecessary.

Of the way he conducts business: I have some copies of the "strike agreement forms," which he submitted before your Commission. These will be instructive of his methods of business during the Belfast farriers' strike of 1903 and 1904, which I propose to submit before your Commission.

The rules of the National Free Labour Association, provide that no members can be elected to its executive council, unless they reside within twenty miles of London.

This rule completely takes it out of the power of the branches to nominate any of their members, and keeps the control of the organisation in the power of one man.

I will, when present before your Commission, submit the rules, which exist for show purposes only, as few are observed other than the one providing its general secretary with a liberal salary and unlimited hotel expenses.

There are no *bona-fide* congresses of properly accredited delegates, these being mostly out-of-workers, at 5s. per day, and who, though ostensibly engaged as stewards, take part on all matters appertaining to the businesses of the congresses, the election of the executive council, and are expected and encouraged by Mr. Collison to do so to make a show.

The accountant is the chief office clerk, and the auditors two of the committee, and there is no independent audit of its accounts.

Much of its literature, which is distributed to employers and workmen, contains lying statements, and is still being circulated, some of which have come into my possession, and which I am prepared to submit before your Commission. These are surprising statements to make, but I can substantiate them before your Commission.

I am quite willing to be confronted before Mr. Collison in the presence of your Commissioners, and there are others who can bear witness to my charges.

The museum of "Trade Union Arguments," he desired to submit before your Commission is no more genuine than his association.

As specimens of "moral suasion" they are worthless.

The National Free Labour Association was established in May, 1893, and my connection with it dates from October 1893 to March 1904, when I severed my connection with it.

During that period I organised several of its branches and fought many of its strikes, which are considerably less than the alleged 500.

I have attended all its annual congresses, with exception of its congress held in London, 1904, which was chiefly remarkable for the absence from it of its branch registrars, who attended the previous year.

Mr. William
Ellis.

5 April, 1905.

INDEXES TO MINUTES OF EVIDENCE.

1. GENERAL INDEX.

2. THE EVIDENCE OF EACH WITNESS INDEXED SEPARATELY.

CONTENTS.

	PAGE
I.—General Index - - - - -	311
II.—The Evidence of each Witness Indexed separately - - - - -	327

INDEXES TO MINUTES OF EVIDENCE.

I.—GENERAL INDEX.

NOTE.—When a series of questions refer to the same subject, the number of the opening question only is given.

Act done with "intent to harm" by individual, not necessarily tortious, 790, 907.

Allen v. Flood, doctrine as to malicious intent in, 141, 150, 151, 153, 517, 523, 529, 581, 621, 792, 800, 809, 902, 2273, 2279.

Actions for Interfering with Business or Contracts
Sir C. Dilke's Bill to restrict, *see title* Proposed Legislation *re* Trade Unions, *subheading* Particular Bills.

Acts of Parliament:

Act of 1859 as to peaceful persuasion, 96, 396.

Coal Mines Regulation Act 1897, amendment of,

re checkweighmen, advocated, 1613, 1685, 1698.

Conciliation (Arbitration) Act 1896, *see that title*.

Conspiracy and Protection of Property Act 1875, *see that title*.

Criminal Law Amendment Act 1871, 104, 143, 397.

Royal Commission of 1874-5 on, 142, 143, 237, 642, 651.

Employers' Liability and Workmen's Compensation Acts, Commission on, 1725.

Friendly Societies Acts.

Application of, to trade unions, views as to, 1179, 2845, 4125.

Provident Nominations and Small Intestacies Act 1883, 251.

Section as to summary proceedings in disputes among members, 1169.

Master and Servants Act 1867, 3851.

Royal Commission of 1874-5 on, 142, 143, 237, 642, 651.

Merchant Shipping Act, 1854, limitation of liability for acts of agents under, 3887.

Molestation and Obstruction by Workmen Act 1825, 91, 95, 102, 393, 636.

Newspaper and Libel Registration Acts, application of to trade union reports, advocated, 3021 (*page* 193).

Trade Union Act 1871, *see that title*.

Trade Union Act Amendment Act 1876, *see that title*.

Agreements between employers' associations and employees, *see title* Employers and Employers' Associations, *subheading* Agreements.

Allen v. Flood:

Cases as to conspiracy and trade interference alluded to in, 548.

Cave, L. J., judgment in, 148.

Civil liability, motive in relation to, effect of decision on, 902, 907.

Distinction between this case and case of conspiracy, made in all judgments, 900.

Grantham, L. J., criticism of the House of Lords' judgment by, 198.

Halsbury, Lord, dicta of, as to effect of, 130, 136, 526.

Herschell, Lord, judgment and dicta in, 137, 151, 162, 523.

Inducing to strike, decision as to, 580.

James, Lord, of Hereford, on doctrine of "interference," in strikes and lock-outs, 226.

Kearney v. Lloyd in relation to, 140, 553, 646.

Lindley, Lord, criticism of, in *Quinn v. Leatham*, 527, 529, 800, 907.

Lyons v. Wilkins, in relation to, 110, 111, 118, 226, 232

Macnaghten, Lord, judgment and dicta in, 153, 581, 777, 703.

Malicious intent, decision as to, 141, 150, 151, 153, 517, 523, 529, 581, 621, 792, 800, 809, 902, 2273, 2279.

"Mogul" case in relation to, 137, 521, 797, 803, 805, 909.

Picketing, although peaceful, is a criminal offence if done with a view to coercion, decision as to, 111.

Shand, L. J., judgment in, 148.

Allen v. Flood—cont.

Theory of facts in, importance of, and variations in summing up by the different judges, 137.

Trade Union delegate, notice by, of intention to strike, whether tortious after decision in, 928.

Tort of Trade interference, dictum of Sir W. Erle as to, objected to by majority of judges in, 504.

Watson, Lord, judgment and dicta in, 226, 523, 793, Wright, L. J., judgment in, 792, 797.

Amalgamated Society of Engineers:

Financial position of, 4437, 4441, 4553.

Fines levied on members of, 995.

Piecework, attitude towards, 987.

Rules of, 987.

Taff Vale Railway Company, contact with during strike of 1895, 957.

Amalgamated Society of Railway Servants:

Account, general, of the society and its objects 968.

Bills promoted by *re* conciliation, 1202.

Funds, particulars as to, 974.

Allocation, 977, 982.

Ear-marked for strikes or protective purposes, 975.

Availability of all funds for strike purposes, 977.

Contribution to Orphan Fund by outside public, 968.

Separation of funds, 977.

General strike on Irish Railways threatened by, 5183 (*page* 293, *col.* 1) 5203.

Membership:

Conditions as to, 973.

Number of members, statistics as to, and as to proportion to total number of railway servants, 966, 973, 1064.

Bell, Mr., speech on, 1064.

Taff Vale Railway Company's employees, number belonging to the society, 960.

Non-unionists, attitude towards, 1055.

Payments by:

For furthering "movements," 968, 973.

To men dismissed for breach of duty, 1085, 1092.

Programme of 1897, recognition of the Union demanded in, 5193.

Programme of 1899, sent to the Taff Vale Railway Company, 1106, 1127.

Rules, 968, 970, 1064.

Taff Vale Railway Company, relations with, 957.

Committee (men's) appointed and paid by the Society, *see title* Taff Vale Railway Company, *sub-heading* Committee (Men's).

Grants to men dismissed from the company's service, 1085.

Strike in 1900, attitude of the Society during, 1134.

Action brought against the Society by the Company, *see title* Taff Vale Case.

Articles, letters and statements inciting to discontent in 1899 and 1900, 1102, 1106, 1107, 1125, 1134, 1136, 1137.

Barry and Rhymney men, action as to, 1106, 1110, 1145, 1152.

Bell, Mr., and Mr. Holmes, management of the strike by, 1144, 1150.

Financial support to strikers, 1144, 1149.

Availability of funds for strike purposes, statement as to, 977.

Picketing arrangements, 1144, 1289.

Programme of demands in 1899, 1106, 1127.

Signalman Ewington's case made a pretext for the strike, 1110, 1121, 1125, 1146.

American Cases re Conspiracy, 126, 127.

Arbitration, *see* Conciliation.

Ashby v. White, 829.

Associated Society of Locomotive Engineers and Firemen :

Account, general, of the society, 980.

Alliance with Amalgamated Society of Railway Servants, 980.

Funds, accounts, etc., 980.

Allocation, 982.

Balances to credit, 980, 981.

Benefits from, members have no legal claim to, 983, 984.

Payments out for specific objects, shown in accounts, 983.

Membership of, 980.

Includes certain members of Amalgamated Society of Railway Servants, 980.

Taff Vale Railway Company, contact with, 957.

Association of London Master Tailors :

Aid rendered by to members struck against, 2708, 2711, 2715.

Rules of, 2716.

Association of Master Lightermen and Barge Owners :

Aid rendered by, to members struck against, 2621, 2663.

Proposed legislation *re* Trade Unions, objections to, 2607.

Rules of, 2658.

Association of Non-Unionists :

Collison, Mr., knows nothing of, 4648.

Constitution and aims of, 4294.

Financial position of, 4319.

Membership of, 4295, 4304.

Bamford v. Turnley (3 B. and S. 62), 120.

Banister Brothers and Moore v. Almond (Labour Gazette, October, 1901, 298), 121.

Bank Holidays, dispute as to recognition of, 1408.

Barber v. Leaiter (7 C.B.N.S., 175), 140.

Barber v. Penley (1893, 2 Ch. 447), 203.

Barry and Rhymney Railway, action of men in relation to Taff Vale Strike, 1106, 1110, 1145, 1152, 1153.

Barwick v. English Joint Stock Bank (L.R., 2 Ex. 259) 337, 711, 770, 773.

Bayley v. The Manchester, Sheffield, and Lincolnshire Railway Company (L.R. 7 C.P., 415, 1872) 335.

Bills to be promoted in Parliament *re* Trade Unions, *see* *title* Proposed Legislation *re* Trade Unions.

Black Lists :

Cases relating to :

Bulcock v. St. Anne's Master Builders (1902, T. L. R. 27), 146, 183.

Denaby Collieries v. Yorkshire Miners' Association (Labour Gazette, March, 1904, 71) 191.

Jenkinson v. Nield (8 T.L.R., 540), 181.

Kilmatigue Conspiracy Case, 185.

Tallow Conspiracy Case, 184.

Thomas v. Amalgamated Society of Carpenters (Times, April 28th, 1902), 184.

Employer's name circulated for himself working overtime, 4778.

Legality of, views of Mr. Askwith as to, 931.

Legislation against, advocated, 1798, 4782.

Difficulties of, 4952.

Not issued by :

Lancashire, Cheshire and North Wales Building Employers' Federation, 2035.

South Yorkshire Coal-Owners' Association, 2185.

Placarding by sandwichmen should be illegal, 5089, 5134.

Position of employers and employed as to, compared, 1333, 1334, 2436, 2554, 2721, 2783, 2895, 3956, 4002, 4209, 4213, 4658, 4668, 4947, 5139.

Trade Unions, issue by, preventing workmen from obtaining employment, 3208, 3243, 3719 (page 222), 3745.

Blacklegs, *see* *title* Strikes, *subheading* Men carrying on work during.

Board of Trade :

Askwith, Mr. G. R., position of as to, 4.

Attitude of, as to arbitration, 5.

Statistics of, *re*

Employers' Associations, 130a.

Trade Unions, Strikes and Lockouts, 8, 11, 12.

Boilermakers' Society :

Black Lists issued by, 3911 (page 232), 3956, 4002.

Breach of agreement, avoidance of, and payment in case of, 4009, 4635.

Relations with North East Coast Ship Repairers' Association, 4653 (page 264).

Boots v. Grundy (1900, 82, L. T., 769), 182.

Bowen v. Hall (6 Q.B.D., 333), 150, 151, 516.

Bradford Corporation v. Pickles (1895, A.C. 587), 150, 798, 801, 802, 803.

Breach of Contract :

Interference in contractual relations by Trade Unions, *see* *title* Trade Unions *subheading* Interference, &c.

Proposed legislation for restriction of actions as to *see* *title* Proposed Legislation *re* Trade Unions *subheading* Particular Bills.

Strikes, *see* *that title*, *subheading* Breach of Contract in.

Briscoe v. Meakin, 4979, 4984.

Broder v. Saillard (2 Ch., D., 692, 701), 120.

Bromage v. Prosser, 151.

Building Trade :

Employers' Associations, *see* *title* Employers and Employers' Associations, *subheadings* Lancashire, Cheshire, and North Wales Building Trades Employers' Federation, Preston Building Trades Association, National Association of Master Plasterers, and National Federation of Building Trade Employers.

Police protection in, difficulty of, 1948 (page 134).

Trade Unions, *see* *title* Trades Unions, *subheadings* National Society of Operative Plasterers and Operative Stone-Masons' Society.

Bulcock v. St. Anne's Master Builders' Federation (1902, T.L.R. 27), 146, 183, 2027 (page 139).

Capital and Counties Bank v. Henty, 151.

Carr v. National Amalgamated Society of House and Ship Painters and Decorators (Labour Gazette, August, 1903, 215).

Account of the case, and its bearing on interference with contractual relations, 148, 197.

Injunction in :—

Breach of, alleged, 2029 (page 142).

Terms of, 2029 (App. 8. page 144).

Proposed Legislation *re* Trade Unions, would destroy liability in similar cases, 2027 (page 139).

Cases :

Allen v. Flood, *see* *that title*.

American Cases *re* Conspiracy, 126, 127.

Ashby v. White, 829.

Bailey v. Pye, 3208, 3240.

Bamford v. Turnley (3B. and S., 62), 120.

Banister Brothers & Moore v. Almond (Labour Gazette, October, 1901, 298), 121.

Barber v. Leaiter (7 C.B.N.S., 175), 140.

Barber v. Penley (1893, 2 Ch., 447), 203.

Barwick v. English Joint Stock Bank (L.R. 2 Ex., 259), 337, 711, 770, 773.

Bayley v. the Manchester, Sheffield and Lincolnshire Railway Company (L.R. 7 C.P., 415, 1872), 335.

Boots v. Grundy (1900, 82 L.T., 769), 182.

Bowen v. Hall (6 Q.B.D., 333), 150, 151, 516.

Bradford Corporation v. Pickles (1895, A.C., 587), 80, 150, 798, 801, 802, 803.

Briscoe v. Meakin, 4979, 4984.

Broder v. Saillard (2 Ch., D. 672, 701), 120.

Bromage v. Prosser, 151.

Bulcock v. St. Anne's Master Builders (1902, T.L.R. 27), 146, 183, 563, 2027 (page 139).

Capital and Counties Bank v. Henty, 151 (page 17).

Carr v. National Amalgamated Society of House and Ship Painters and Decorators, *see* *that title*.

Chamberlain's Wharf Case (1900, 2 Ch., 605), 242, 243.

Charnock v. Court (1899, 2 Ch., 35), 116, 459.

Chasemore v. Richards, 803.

Clifford v. Brandon, 828, 829.

Commissioners of Sewers v. Gellatly (1876, 3 Ch., 615), 289.

Crocker v. Knight (1892, 61 L.J. Q.B., 466), 250, 251.

Crump v. Lambert (L.R. 3 Eq., 409), 120.

Curran v. Treleaven (1891, 2 Q.B., 547), 222, 224, 1192.

Cases—cont.

- Donaby Collieries v. Yorkshire Miners' Association (*Labour Gazette*, March, 1904, 71), 27, 191, 624-937.
- Duke of Bedford v. Ellis (1901, A.C., 1), 27.
- Duke v. Littleboy (1880, 49 L.J. Ch., 802), 242.
- Epping Forest Case (1876, 3 C.D., 615), 360.
- Ferguson v. Kinnoul (1842), 195.
- Giblan v. National Amalgamated Labourers' Union (1902, 18 T.L.R., 500) 27, 155, 177, 179, 183, 197, 531, 620, 770, 812, 848.
- Gibson v. Lawson (1891, 2 Q.B., 545), 222, 224, 458.
- Glamorganshire Coal Company v. South Wales Miners Federation (1902, 18 T.L.R., 810, 1 K.B., 1903, p. 118), 27, 39, 180, 781, 1742.
- Gregory v. Duke of Brunswick (6 Man, and Gr. 205, 953, 1844), 139, 140, 151, 177, 179, 548, 554, 826 830.
- Hilton v. Eckersley, 819.
- Howden v. Yorkshire Miners' Association (1903, 72 L.J.K.B., 176), 244, 737, 1019.
- Huttley v. Simmons (1898, 1 Q.B., 181), 139, 181, 622.
- Jenkinson v. Nield (8 T.L.R., 540), 181.
- Kearney v. Lloyd (26 L.R., Ir., 26, 285), 140, 553, 646.
- Keeble v. Hickeringill, 151.
- Kilmatigue Conspiracy Case, 185.
- Limpus v. London General Omnibus Company (1 H. and C. 526), 337.
- Linaker v. Pilcher (17 T.L.R., 256), 24.
- Lumley v. Gye (2 E. & B., 216), 195, 774, 775, 776, 779, 783, 785, 786, 787, 796.
- Lyons v. Wilkins, *see that title*.
- McElrea v. United Society of Drillers (*Times*, April 15th, 1904) 200.
- McGuire v. Andrews, Reynolds, Boatman, and the Amalgamated Society of House Decorators and Painters (Plaistow Branch) (*Times*, March 8th, 1904), 198.
- Mersey Docks Trustees v. Gibbs (1866 L.R., 1 H.L., 93), 668, 691.
- Maux v. Maltby (1819), 239, 358.
- Middlemass & Co. v. The Scottish Operative Tailors' Society, 5135.
- Mogul Steamship Company v. McGregor, Gow & Company, *see that title*.
- Mulcahy v. Regina (1868, L.R., 3 H.L., 317), 140, 489.
- Mullet v. The United French Polishers' London Society (*Times*, June 22nd, 1904), 1019.
- O'Connell v. The Queen (11 Cl., & F., 155), 140.
- Old v. Robson (1890, 59 L.J.M.C., 41), 242.
- Pink v. Federation of Trade Unions (1892, 67 L.T., 258), 19.
- Poulton v. London & South Western Railway Company (2 L.R., Q.B., 540), 693.
- Quinn v. Leatham, *see that title*.
- Read v. Friendly Society of Operative Stonemasons (1902, 2 K.B., 88, 732), (1902, T.L.R., 21), 196, 197.
- R. v. Bauld (1876, 13 Cox, 282), 104, 106, 110.
- R. v. Bunn, 603, 606.
- R. v. Druitt, 223, 596, 845.
- R. v. Eccles, 140.
- R. v. Hibbert (1875, 13 Cox, c.o. 82), 104.
- R. v. Journeymen Tailors of Cambridge, 140.
- R. v. Mawbey, 140, 818, 819.
- R. v. Parnell and others (14 Cox, c.o. 508), 140.
- R. v. Rowlands, 148, 223, 603, 606.
- R. v. Selsby (1847, 5 Cox, c.o. 495), 95.
- R. v. Shepherd (1869, 11 Cox, c.o. 325), 102, 103.
- R. v. Warburton (L.R., l.c. 276), 140.
- Rigby v. Connol (1880, 14, C.D., 482), 243.
- Rogers v. Rajendro Dutt (13 Moo. P.C., 209), 194, 791, 792.
- Scottish Co-operative Society v. Glasgow Fleshers (1898, 35 S.L.R., 645), 146, 562.
- Skinner v. Gunton (1 William Saunders, 237), 649, 825.
- Springhead Spinning Company v. Riley (1868, L.R., 6 Eg., 551), 1159, 1160.
- Stevenson v. Newnham (1853, 13C. B., 285), 150.
- Swaine v. Wilson (1890, 24 Q.B., 252), 242.
- Taff Vale Railway Company v. The Amalgamated Society of Railway Servants, *see Taff Vale Case*.
- Tallow Conspiracy case, 184.

Cases—cont.

- Temperton v. Russell (1893, 1 Q.B., 435, 715), 23, 27, 148, 150, 151, 177, 237, 276, 299, 516, 901, 909, 1184, 1193.
- Thomas v. Amalgamated Society of Carpenters (*Times*, April 28th, 1902), 184.
- Trollope v. London Building Trades Federation (1895, 72 L.T., 342), 24, 31, 181, 5136.
- Walsby v. Anley, 223.
- Walter v. Selfe (4 de G. & S., 315), 120.
- Walters v. Green (1899, 2 Ch., 696), 116.
- Winder v. Kingston-on-Hull Corporation (1888, 20 Q.B.D., 412), 242.
- Wolfe v. Matthews (1882, 21 C.D., 194), 242.
- Chamberlain's Wharf Case (1900, 2 Ch., 605), 242, 243.
- Charnock v. Court (1899, 2 Ch., 35), 116, 459.
- Chasemore v. Richards, 803.
- Checkweighmen :**
- Appointment of :
By independent authority, suggested, 1692, 1697.
Neutral men should be appointed, 1608, 1612, 1691, 1706.
- Interference in working of pits by, 1603, 1604, 1610, 1698.
Difficulty in restraining at present, 1607, 1608.
Restriction of output by, 1604.
- Class Actions**, procedure as to, 358.
- Clifford v. Brandon, 828, 829.
- Coal Mines Regulation Act, 1897 :**
Amendment of *re* checkweighmen suggested, 1613, 1698.
- Coal Output :**
Decline in output per man, 1001.
Number of men employed, and amount of coal raised, returns as to, 1001, 1019.
Restriction of output, 1002.
Intimidation, method of, 1029.
Legislation as to, suggestion as to, and views as to difficulties of, 1032, 1316, 1317.
Statistics as to, 1019.
"Stop day" action in relation to, 1009.
Stoppage of work resulting from, 1024, 1032.
Trade Unions' responsibility for, 1027.
- Coalowners' Association of Northumberland and Durham**, *see title* Employers and Employers' Associations.
- Coalowners' Associations**, Witnesses on behalf of :
London Society of Coal Merchants—M. G. C. Locket, 1892-1911.
Monmouthshire and South Wales—Mr. C. Kenahole, 1730a-1891.
Northumberland and Durham—Mr. R. Guthrie, 1406-1568.
Scotland—W. R. Baird, 1569-1730.
South Yorkshire Coalowners' Association—Mr. F. Parker Rhodes, 2174-2360.
- Collective Bargaining :**
Advantages of, 363, 2105, 2827, 2913.
Attitude of Northumberland & Durham Coalowners, and South Wales Coalowners, compared, 1426, 1427, 1433.
Government as an employer, position as to, 2923.
Pernicious effects asserted, 1379.
Principle of, recognised in agreements between Employers' Federations and Trade Unions, 2410 (page 161).
(*See also title* Employers and Employers' Associations, sub-heading Agreements.)
- Collieries and Mining Industry**, Strikes in, *see* Strikes.
- Commissioners of Sewers v. Gellatly**, (1876, 3 Ch., 615), 239.
- Commissions Royal**, *see* Royal Commissions.

Conciliation :**Compulsory Arbitration :**

- Advocated, 3753.
- Impracticable, 1948 (*page* 133).
- Unnecessary, 2423.
- Judicial Tribunal, special, to deal with Trade Disputes, advocated, 3495 (*page* 212).
- North Eastern Railway Company, attitude towards, 1067.
- Recent decisions, effect of. in increasing tendency to adopt, 2104, 2105.
- Royal Commissions on Labour (1891-4) and on Trade Unions (1867-9), observations of on importance of conciliation, 362, 365, 372.
- Taff Vale Railway Company, attitude towards, 1066, 1107, 1121.
- Trade Unions, attitude towards, 1066.
- (*See also title* Employers and Employers' Associations, *sub-heading* Agreements.)

Conciliation (Arbitration) Act, 1896 :

- Bill of 1901 to amend, *re* Railways, 1202.
- Bill proposed by Amalgamated Society of Railway Servants, to amend, 1204.
- Holmes, Mr., attitude towards, 1136.
- Number of Boards of conciliation registered under, 1065.

Conciliation and Arbitration (Railways) Bill, 1901 :

- Attempts to legislate with regard to right of employers to employ individuals, 1202.
- Objects and provisions of, 1202.

Conciliation Boards :

- Advantages of, and assertions by witnesses that awards are usually carried out, 362, 1052, 1412, 2944, 2972, 4221, 4239, 4241, 4266, 4269, 5000.
- Boot and Shoe trade. agreement as to, 4221 (*page* 243), 4239, 4266.
- Failure of, and inability of Trade Unions to enforce awards, alleged, 1001, 1024, 1037, 1042, 1047, 1053, 1065, 1066, 1073, 1412, 2338 (*page* 264), 4653, 4741.
- List of instances, 1200.
- London Master Builders' Association, Rules of as to, 1948 (*page* 133.)
- Number of Boards registered under the Act of 1896, 1065.
- Officers of Trade Unions elected at Annual Meetings only to be eligible for, suggestion, 2707.
- Scotch Coal Trade Conciliation Board, Constitution and scope of, 1715.
- Trade Unions, how far an essential element in, 1721, 1728, 1729.
- South Wales Miners' Federation, rules as to, 997, 1042.
- Sliding scale agreement, 998, 1000, 1001.
- Strikes for purposes of coercing Non-Unionists not brought before the Board, 1037.
- Staffordshire Potteries Manufacturers' Association, 5000.
- Wages question, objections to the Board in connection with, 5003, 5009.
- (*See also title* Employers and Employers' Associations, *sub-heading* Agreements.)

Conspiracy :

- Acts legal if done by one, where punishable as, 126, 140, 180, 181, 220, 222, 635, 651, 1479, 1483.
- American Cases *re* Conspiracy, 126, 127.
- Legislation as to, proposed by Trade Unions, 86, 138, 237, 1222, 1408, 1534, 2027 (*pages* 137 and 138), 2693, 3606, 3791, 3911, 3947, 4815, 5165, 5376 (*page* 302).
- (*See also sub-heading* Law as to is general and should be maintained).
- Boycotting dealt with as, 184, 185, 237, 241.
- Cases as to :
 - Allen v. Flood (1898, A.C. 1), *see that title*.
 - American cases, 126, 127.
 - Boots v. Grundy (1900, 82 L.T., 769), 182.
 - Bowen v. Hall (6 Q.B.D., 333), 150, 151, 516.
 - Bulcock v. St. Anne's Master Builders, (1902 19 T.L.R. 27), 146, 183, 563, 2027 (*page* 139).
 - Carr v. National Amalgamated Society of House Painters (1903), *see that title*.
 - Curran v. Treleaven (1891, 2 Q.B., 547), 222, 224, 1192.
 - Effect of Cases :
 - Dicta of Lord Halsbury, 130, 136, 137.
 - Taff Vale Case, effect of, 788, 789.

Conspiracy—cont.**Cases as to—cont.**

- Giblan v. National Amalgamated Labourers' Union (1903), *see that title*.
- Gibson v. Lawson (1891, 2 Q.B. 545), 222, 224, 458.
- Gist of the action in, 646, 825.
- Gregory v. Duke of Brunswick (6 Man. & Gr. 205, 953), *see that title*.
- Huttley v. Simmons (1898, 1 Q.B., 181), 139, 181, 622.
- Kearney v. Lloyd (1890, 26 L.R., Ir., 26, 285), 140, 553, 646.
- Kilmatigue Conspiracy Case, 185.
- Lyons v. Wilkins, *see that title*.
- McElrea v. United Society of Drillers ("Times," April 13th, 15th, 1904), 200.
- McGuire v. Andrews, Reynolds, Boatman and the Amalgamated Society of House Decorators and Painters (Plaistow Branch), ("Times," March 8th, 1904), 198.
- Mogul Case, *see* Mogul Steamship Company Case.
- Mulcahy v. Regina (1868, L.R., 3 H.L. 317), 140, 489.
- Quinn v. Leatham (1901, A.C. 495), *see that title*.
- R. v. Warburton (L.R.I.C.C. 276), 140.
- Scottish Co-operative Society v. Glasgow Fleshers (1898) 146.
- Skinner v. Gunton (1 William Saunders 230), 649.
- Civil Liability :
 - American Cases, 127, 128.
 - Discussion as to civil and criminal liability, 138, 2202.
 - Gregory v. Duke of Brunswick, effect of on, 140, 826.
 - How far affected by Act of 1875, 47, 49, 1184.
 - Maintenance advocated, 3606 (*page* 216).
 - Motive not to be considered in, 907.
 - Quinn v. Leatham :
 - First considered in, 237
 - Untouched by, 820, 823.
- Combination :
 - How far indictable as, 813.
 - Oppressive Combination, definition of, 631, 840, 911.
 - To commit a tort is, 650.
 - Suggested no reason why this principle should be extended, 651
 - "To molest," ruling as to, 598, 602.
- Common Law Liability as to, 2202, 4610 (*page* 260).
- Competition, when exemption from, 146, 148, 151, 152, 156.
- Allen v. Flood as to, 148, 151.
- Bulcock v. St. Anne's Master Builders (1902), as to, 146.
- Carr v. National Amalgamated Society of House Painters (1903), as to, 148, 197.
- Giblan v. National Amalgamated Labourers' Union (1903), as to, 155, 183.
- Mogul case, Bowen, L. J., on, 148.
- Temperton v. Russell (1893), as to, 148, 150.
- Conspiracy to injure, *see that title*.
- Criminal Conspiracy :
 - Effect of Conspiracy and Protection of Property Act 1875, on, 146, 237, 241, 2203, 2223, 2236, 2242.
 - Liability for, discussed, 138, 2202, 2492, 2508.
 - Definition of, 140, 488, 496, 499.
 - Difficulty and uncertainty of the law and conflict of dicta as to, 130, 136, 139, 143, 180, 217, 604, 781, 836, 2204.
 - Pollock, Sir F., on, 139 ;
 - Discretion of Judge and Jury as to, views as to, 1230, 1483, 2189, 3947.
 - Employers and employees, position under present law of, contrasted, 2296, 4012.
 - Gist of the action in, 646, 825.
 - Law as to is general and should be maintained, 1440, 1473, 1596, 2027, 2083, 3606, 3809, 4102, 4221, 4752, 4924, 5019, 5025, 5089, 5117.
 - Malicious intent in, 150, 151.
 - Nuisance, treatment as, suggested by Mr. Haldane, K.C., 203.
 - Criticism of this suggestion, 214, 216, 471.
 - Strengthening of the law advocated, 5381.
 - Trade Union Congress 1902, views of on, 138.

Conspiracy and Protection of Property Act 1875 :

Account, general, of the Act, 142, 143.

Attending, etc., allowed under the Act, nature and effect of, 410, 425, 441, 446, 451, 1250, 1436, 1654, 1730.

Distinction between, "obtaining and communicating information" and "peaceful persuasion," 1462.

Repeal of clause referring to views as to, *see sub-heading* Section 7, qualifying clause.

Civil liability, how far affected by, 47, 49, 1184.

Criminal liability, how affected by, 146, 237, 241, 2203, 2208, 2223, 2236, 2242.

Effect of decisions in cases since, 146, 150, 227.

Intimidation under, 222.

Definition of, by Mr. Chalmers-Hunt, 223.

Royal Commission on Labour 1891-4, Report of, on, 223, 224, 458.

General application, 437.

Object of the Act, 237, 642.

Cairns, Lord, on, 237, 2203.

Peaceful persuasion not allowed under, 104, 109, 411, 415.

Words as to peaceful persuasion, why left out, 104.

Picketing :

Reason for provision of statutory remedy as to, 482.

Reference to in Memorandum by Sir F. Pollock in Report of Royal Commission on Labour 1891-4, 1186, 1191.

Proposed legislation as to, 86, 138, 237, 1222, 1408, 2662 (*page* 174), 2693, 3208 (*page* 202), 3606, 3791, 3911, 3947, 4815, 5165 (*page* 289), 5376 (*page* 302).

(*See also title* Proposed Legislation *re* Trade Unions, *sub-heading* Picketing and Peaceful Persuasion.)

Section 3 :

Account, general of, 142, 145.

Views as to, 2209.

Sections 4 and 5 of, extension of, to other statutory undertaking, views as to this suggestion, 1299, 4333 (*page* 247), 4373, 4934, 5183 (*page* 294 *Col.* 1), 5311.

Section 7 :

Intention of, as to picketing, 407; 2353.

Qualifying Clause of, repeal of, views as to desirability of, 1438, 1439, 1948 (*page* 133), 1590, 1659, 1671, 2354, 3719 (*page* 222), 3921, 4047, 4224, 4277, 4610 (*page* 260), 4613, 4787, 5021, 5113, 5376, (*page* 303 *Col.* 1), 5379, 5426, 5431, 5438.

Views of witness that it gives sufficient liberty to all parties, 5165.

Should be placarded in all factories and workshops, 3477.

(*See also sub-heading* Attending, &c., allowed under the Act.)

Watching and besetting, under the Act, 407, 1242, 4610 (*page* 259).

Conspiracy to Injure :

Cases as to, 225, 237, 251, 901.

Decisions in, 2189.

Gregory *v.* Duke of Brunswick, 139, 140, 151, 177, 179, 548, 826.

Quinn *v.* Leatham, doctrine of in, 151, 152, 155, 196, 533, 542, 568.

Combination to detach men from work should be illegal, 5095.

Definition of, 533.

Existence and effects of, 893.

Historical aspect of, 548.

Justification for, what is, 612, 615, 619, 825.

Macnaghten, Lord, on, 140, 533, 542, 827.

"Motive" in, as constituting, 4956.

Co-Partnership or Profit-sharing, advantages of, 4334 (*pages* 247, 249).

Cork, Bandon and South Coast Railway, strike on, 5183 (*page* 293, *Col.* 1), 5207.

Criminal Law Amendment Act 1871, 104, 143, 397.

Royal Commission of 1874-5 on, 142, 143, 237, 612, 651.

Grocker v. Knight (1892, 61, L.J., Q.B., 466), 250, 251.

Crump v. Lambert (L.R. 3 Eq., 409), 120.

Curran v. Treleaven (1891, 2, Q.B., 547), 222, 224, 1192.

Demarcation of Work as a cause of strikes, 1948 (*page* 132), 1973, 2411, 2533, 2590, 2597, 3060 (*page* 195), 3477, 3500, 3940, 4743, 5165.

Settlement by Conciliation or Agreement, 2597, 4182.

Denaby Collieries v. Yorkshire Miners' Association, ("Labour Gazette," March, 1904), 27, 191, 624, 937.

Duke of Bedford v. Ellis (1901, A.C., 1), 27.

Duke v. Littleboy (1880, 49, L.J., Ch. 802), 242.

Durham Coalowners' Association :

Aid rendered by, to members struck against, 2770, 2906.

Employers, and Employers' Associations :

Agreements and negotiations between employers and Trade Unions, 362, 1412, 1417, 1426, 1433, 1948 (*page* 133, *col.* 2), 1999, 2105, 2338, 2410 (*page* 161), 2423, 2522, 2570, 2597, 2771, 2914, 2915, 2917, 3565, 3911, 4025, 4078, 4148, 4215, 4237, 4239, 4266, 4653 (*page* 264), 4718, 5000.

Demarcation of work, questions as to, should be settled by, 4182.

Inability of Trade Unions to enforce, and suggestions that they should be responsible for breaches of such agreements, 1047, 1412, 1547, 2008, 2110, 2931, 2943, 3565, 3571, 4028, 4164, 4527, 4532, 4653 (*page* 264), 4741.

Payment by Trade Unions in cases of breach of agreement, instances of, 4009, 4635.

Views of Mr. Askwith, as to, 366.

Royal Commission on Labour 1891-4. Report and evidence as to, 362, 365, 372, 1412 (*page* 109), 4077, 4527.

Sliding Scale Agreements, *see that title*.

South Metropolitan Gas Company, *see that title*.

Technical delegates appointed by North East Coast Ship Repairers' Association, 4653 (*page* 264).

(*See also title* Collective Bargaining.)

Aid rendered by to members struck against : 1795, 2033, 2128, 2182, 2433, 2458, 2568, 2621, 2663, 2708, 2715, 2770, 2906, 3195, 3427, 3958, 3984, 4209, 4253, 4655, 4752 (*page* 269), 4944, 4990, 5054, 5065, 5091.

Association of Master Lightermen and Barge Owners : Aid rendered by to members struck against, 2621, 2663.

Proposed Legislation *re* Trade Unions, resolution as to, 2607.

Rules of, 2658.

Attitude of Employers towards Trade Unions, *see title* Trade Unions, *sub-heading* Employers.

Coalowners' Association of Northumberland and Durham :

Agreements and Negotiations with workmen, 1412, 1426, 1433.

Aid rendered by to members struck against, 2770, 2906.

Proposed legislation *re* Trade Unions, views as to, 1408.

Definition of Trade Unions in Act of 1876, includes Employers' Associations, 242, 1197, 1198.

Durham Coalowners' Association :

Aid rendered by to members struck against, 2770, 2906.

Engineering Trade Employers' Federation :

Aid rendered by to members struck against, 2433, 2458, 2568, 2621.

Agreements with Trade Unions, for settlement of disputes, 2410 (*page* 161) 2423, 2522, 2570, 2597.

Constitution and membership of, 2410.

Proposed legislation *re* Trade Unions, Views as to, 2410, 2420.

Relations with workmen, 2530, 2600

Rules of, 2433, 2434.

Federation of Master Bleachers and Dyers :

Aid rendered by to members struck against, 5054.

Rules of, 5055, 5065.

Funds of, distinguished from those of Trade Unions, 130a.

Gas Companies' Protection Association, 4422.

Employers, and Employers' Associations—cont.

Incorporated Federated Association of Boot and Shoe Manufacturers :

Agreements and Negotiations with Trade Unions, 4239, 4266.

Aid rendered by to members struck against, 4253.

Objects of, 4236.

Institute of Clay Workers :

Proposed legislation *re* Trade Unions, views as to, 5174.

Labour Protection Association :

Constitution and objects of, 3208, 3360, 3416.

" Policemen " of, 3404.

Lancashire Cheshire and North Wales Building Trade Employers' Federation :

Aid rendered by to members struck against, 2033.

Black lists not issued by, 2035.

London Master Builders' Association :

Agreements with Trade Unions, 1948 (*page* 133, *col.* 2), 1999, 2008.

Rules of, 1948 (*page* 133, *col.* 2), 1999.

London Master Carmen and Cartage Contractors' Association.

Aid rendered by to members struck against, 2128.

Constitution of, 2126.

London Master Tailors' Association :

Aid rendered by to members struck against, 2708, 2715.

Rules of, 2716.

Monmouthshire and South Wales Coalowners' Association :

Aid rendered by to members struck against, 1795.

Black lists not issued by, 1797.

Particulars as to, 1730a.

Rules of, 1730a (*page* 122), 1790.

Sliding Scale Agreement, 997, 998, 1000, 1730a.

National Association of Master Plasterers :

Aid rendered by to members struck against, 4209.

Agreement with Trade Union, and with National Federation of Building Trade Employers, 4148, 4157, 4215.

Apprentices, clause as to, 4175.

Demarcation of work under, 4180.

Foremen, position of, 4156.

Wages, local rates, 4165.

Rule as to discharge of strikers, 4209.

National Federation of Building Trade Employers of Great Britain and Ireland :

Agreements with Trade Unions, 1999, 2008.

(*See also subheading* National Association of Master Plasterers, *subheading* Agreement.)

Aid rendered by to members struck against, 3195.

Rules of, 1999.

National Federation of Merchant Tailors :

Aid rendered to members struck against, 5091.

Black lists, question as to, 5140.

Rules, 2703a.

North East Coast Ship Repairers' Association :

Aid rendered by to members struck against, 4655, 4668.

Agreements and negotiations with Trade Unions, Technical Delegates appointed for, 4653.

Amicable relations with Trade Unions, 4653 (*page* 264).

Black lists, practice as to, 4668.

Boilermakers' Society, relations with, 4653 (*page* 264).

Non-Unionists, employment of, by the Association, objected to by Trade Unions, 4653 (*page* 264).

Rules of, 4664, 4676.

Northumberland and Durham Coalowners' Associations, *see subheading* Coalowners' Association of Northumberland and Durham.

Number of Employers' Associations in the different trades, Board of Trade Returns as to, 130a.

Position of, as compared with Trade Unions, 1197, 1316, 1317, 1320, 1326, 1336, 3911 (*page* 233), 4863.

Law should be the same for employers and employed, views on this point, 1225, 1320, 1543, 1554, 1596, 2069, 2188, 2533, 2721, 2774, 2769, 2830, 2835, 2899, 3719 (*page* 222), 3877, 3898, 4012, 4132, 4213, 4214.

Proposed Legislation *re* Trade Unions, applies equally to employers, 1197, 1211, 1222, 1269 (*page* 99), 1281, 1736, 2769, 2828, 3911 (*page* 233).

Employers, and Employers' Associations—cont.

Railway Companies' Associations :

Aid rendered by to members struck against, 4944.

Interests represented by, 4797.

Returns of, when obligatory, 131.

Rules of Employers' Association, *see Appendices, pages* 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88.

Salt Union Limited, constitution and objects of, 3603.

Scottish Mine Owners' Defence and Mutual Insurance Association, deals with Workmen's Compensation Act, 1724.

Shipbuilding Employer's Federation :

Aid rendered by to members struck against, 2770, 2906, 3984.

Agreements with Trade Unions, 3911, 4025.

Constitution of, 3911.

Objects of, 3982.

Shipping Federation :

Depôt ship for lodging workmen during strikes, provided by, 5376 (*page* 302), 5403, 5439.

Origin and working of, 5376 (*pages* 301 and 302).

South Metropolitan Gas Company, *see that title*.

South Yorkshire Coalowners' Association :

Agreements and negotiations with Trade Unions, Joint Committee for, 2338.

Aid rendered by to members struck against, 2182.

Black lists not issued by, 2185.

Constitution of, 2179.

Staffordshire Potteries Manufacturers' Association

Agreements and Negotiations with workmen—Arbitration Board for, 5000.

Aid to be rendered to members struck against would be considered if necessity arose, 4990.

Objects of, 4998.

Statistics available as to, 130a.

Taff Vale Railway Company, *see that title*.

United Kingdom Granite and Whinstone Quarry-

Masters' Association :

Aid rendered to by members threatened for employing Non-Unionists, 4752 (*page* 269).

Apprentices, rules as to, 4753, 4773.

Attitude towards Trade Unions, 4752 (*page* 269).

Constitution of, 4752.

Yorkshire Glass Bottle Manufacturer's Association :

Agreements and negotiations with Trade Unions, 4077.

Origin, Rules, etc., 4041, 4043, 4078.

Employers' Liability and Workmen's Compensation Acts :

Commission on, 1725.

Scottish Mine Owners' Defence and Mutual Insurance Association deals with, 1724.

Employers' Parliamentary Council :

Constitution and objects of 3353.

Rules of, 3356.

Engineering Trade Employers' Federation, *see title* Em-

ployers' Associations, *subheading* Engineering, etc.

Epping Forest Case (1876, 3, C.D., 615), 360.

Federation of Master Bleachers and Dyers, *see title*

Employers Association, *subheading* Federation, etc.

Free Labour Association, *see* National Free Labour Association.

Friendly Societies :

Protection of Trade Unions as, suggestions as to, made before the Royal Commission on Trades Unions 1867, 1169, 1170, 1179.

Friendly Societies Acts.

Application of to Trade Unions, views as to, 1169, 1179, 2845, 4125.

Provident Nominations and Small Intestacies Act 1883, 251.

Section as to summary proceedings in disputes among members, 1169.

Ferguson v. Kinnoul (1842), 195.

Gas and Water Companies :

Breach of Contract by persons employed in, law as to, 4333 (*page* 247), 4397, 4474, 4511, 4607.

Sliding scale system, introduction of, 4569.

South Metropolitan Gas Company, *see that title*.

Gas Companies' Protection Association, Rules of, 4422.

Giblan v. National Amalgamated Labourers' Union (1902 18 T.L.R., 500) 27, 155, 177, 179, 183, 197, 531, 620, 770, 812, 848.

Gibson v. Lawson (1891, 2 Q.B., 545), 222, 224, 458.

Glamorganshire Coal Company v. South Wales Miners' Federation (1902, 18 T.L.R., 810; 1 K.B. 1903, page 118), 27, 39, 180, 781.
Sir C. Dilke's Bill would legalise proceedings of men in, 1742.

Great Northern (Ireland) Railway Company :
Negotiations with the staff, refusal to recognise the union, 5183 (page 293), 5193, 5324.
Strikes, particulars as to, 5183 (pages 292 and 293), 5184.

Great Western Colliery Company, strike in 1903, 1024, 1032, 1053, 1201, 1779, 1890.

Gregory v. Duke of Brunswick (6 Man. and Gr., 205. 953, 1844), 139, 140, 151, 177, 179, 548, 554, 826, 830.

Hilton v. Eckersley, 819.

Howden v. Yorkshire Miners' Association (1903, 72, L.J., 176), 244, 737, 1019.

Huttley v. Simmons (1898, 1, Q.B., 181), 139, 181, 622.

Incorporated Federated Association of Boot and Shoe Manufacturers, *see title* Employers' Association.

Institute of Clayworkers, views of members of, as to proposed legislation *re* Trade Unions, 5173.

"Intention to Damage," effect of, on otherwise lawful act, 521
Doctrine as to malicious intent in *Allen v. Flood*, 141, 150, 151, 153, 517, 523, 529, 581, 621. 792, 800, 809, 902. 2273 2279.

Intimidation :
Consideration of what amounts to, 1339, 1383, 1554, 2146, 2292.
Difficulty of proving intimidation, 1650, 1651, 1667, 5390.
Peaceful Persuasion leading to, *see title* Peaceful Persuasion, *subheading* Leads to intimidation.
(*see also title* Picketing.)

Ironfounders' Society, fines levied on members of, 995.

Jenkinson v. Nield (8, T.L.R., 540), 181.

Kearney v. Lloyd (26, L.R., Ir. 268), 140, 553, 622. 646.

Keeble v. Hickeringill, 151.

Kilmatigue Conspiracy Case, 185.

Labour Protection Association :
Constitution and objects of, 3208, 3360, 3416.
"Policemen of," 3404.

Lancashire, Cheshire and North Wales Building Trades Employers' Federation :
Action taken by, when strike occurs, 2030.
Black lists not issued by, 2035.

Lewis Merthyr Colliery :
Circular Notice issued by Lewis Merthyr Lodge, 1013.
Stoppage of work at, 1130.

Liability of Trade Unions :
Agency, law as to (*see title* Trade Unions, *subheading* Agency).
Bruce, Mr., opinion on, in 1875, 42.
Cases as to, 335, 337, 1159.
Bayley v. Manchester, Sheffield and Lincolnshire Railway Company, 335.
Briscoe v. Meakins, 4979.
Carr v. National Amalgamated Society of House and Ship Painters and Decorators, *see that title*.
Curran v. Treleaven, 1192.
Duke of Bedford v. Ellis, 27.
Following Taff Vale Case, 27.
Linaker v. Pilcher, 24.
Lyons v. Wilkins, point as to liability not argued in, 24.
Springhead Spinning Company v. Riley (1868) 1159.

Liability of Trade Unions—cont.

Cases as to—*cont.*
Taff Vale Case, *see that title*.
Temperton v. Russell, 23, 27, 276, 299, 1184, 1193.
Trollope v. London Building Trades Federation, 24, 31.
Employer and workmen, position as to, compared, 58.
How far suable apart from special Trade Union Law, 299, 313.
Incorporation in relation to, *see title* Trade Unions, *subheading* Status, *sub-subheading* Incorporation.
Maintenance of liability of Trade Unions and Trade Union Funds, views as to, 1620, 1709, 1736, 1867, 1900, 1901, 1920, 2027 (page 138), 2344, 2400, 2607 2662, (page 164), 2678, 2693, 2701, 2707, 2722, 2835, 2841, 2954, 2967, 2974, 2982 (page 191), 3208 (page 202), 3237, 3536, 3558, 3606, 3640, 3719, 3751, 3752, 3753, 3791, 3800, 3809, 3858, 3874, 3897, 3911, 4012, 4031, 4042, 4105, 4234, 4248, 4333 (page 248), 4366, 4367, 4411, 4527, 4530, 4610, (page 251), 4778, 4785, 4816, 4855, 4857, 4891, 4927, 4933, 4979, 5089, 5370, 5376 (page 302), 5414, 5421.
Remedy against Trade Union Funds, preferable to criminal proceedings, 2027 (page 139).
Shipowners' limitation of liability, question as to, 3887, 4867.
(*see also title* Proposed Legislation *re* Trade Unions, *subheading* General References to, *sub-subheading* Liability).
Members of Trade Unions not personally liable, 385, 391, 673, 3652, 3657.
Public opinion as to, 23, 24, 27, 42.
Registration in relation to *see title* Trade Unions, *subheading* Status.
Royal Commission on Labour 1891-4, as to, *see that title*.
Royal Commission on Trade Unions 1867-9, as to, *see that title*.
Rules of Trade Unions in relation to :
How far affecting liability, 695, 712, 714, 716, 729
Possibility of framing so as to exclude liability, 331, 334.
Trade Union Congress 1875 on, 42.
Views of Mr. Askwith as to, 47, 49, 52.
(*see also title* Proposed Legislation *re* Trade Unions, *subheading* General References to, *sub-subheading* Liability.)

Lightermen's Union, powerful position of, 2651.

Limpus v. The London General Omnibus Company (1) H. & C., 526), 337.

Linaker v. Pilcher (17, T.L.R., 256), 24.

London Master Builders' Association :
Agreements with Trade Unions, 1999, 2008.
Rules of, 1999.

London Master Carmen and Cartage Contractors Association :
Aid rendered by to members struck against, 2128.
Constitution of, 2126.

London Master Tailors' Association :
Aid rendered by to members struck against, 2708, 2715.
Rules of, 2716.

Lumley v. Eye, (2 E. & B., 216), 195, 774, 775, 776, 779, 783, 785, 786, 787, 796.

Lyons v. Wilkins ((1) 1896 1 Ch. 811, 832 : (2) 1899, Ch. 255.
Combination to prevent one man from working for another, declared illegal by Kay L.J., 156.
Decision in :
Not affected by *Allen v. Flood*, 110, 111, 118, 226, 232.
Should be maintained, 3809 (page 227), 3843, 4752 (page 269), 4917.
(*see also subheading* Peaceful Persuasion).
Followed by other cases, 116.
Headnote in, 110.
Legality of strikes :
Dictum of Kay, L.J. in, 222, 584.
Dictum of Lindley M.R. in, 158, 595.

Lyons v. Wilkins—cont.

- Liability of Trade Unions, point not argued in, 24.
- Peaceful persuasion, decisions as to, 110, 111, 113, 118, 120, 412, 413, 459, 4917.
- First declaration that peaceful persuasion is illegal, 114.
- Remedy in, followed in other cases, 121.
- Views of Mr. Askwith as to, 111.
- Sympathetic strikes, illegality of, dicta as to in, 225, 585, 933.

Magistrates, attitude of, in cases of picketing and other offences during strikes, 1948 (*page* 133), 1970, 2014, 2707, 3208 (*page* 202), 3419, 3855, 4272, 5268, 5391, 5406.

"Malice," effect of, on otherwise lawful act, 516.

- Allen v. Flood, doctrine as to malicious intent in, 141, 150, 151, 153, 517, 523, 529, 581, 621, 792, 800, 809, 902, 2273, 2279.
- Quinn v. Leatham, doctrine in, 518, 811, 2274, 2279.

McElrea v. United Society of Drillers (*Times*, April 15 1904), 200.

McGuire v. Andrews, Reynolds, Boatman, and the Amalgamated Society of House Decorators and Painters (Plaistow Branch) (*Times*, March 8th, 1904), 198.

Master and Servants Act 1867, 3851.

- Royal Commission of 1874-5 on, 142, 143, 237, 642, 651.

Merchant Shipping Act, 1884, liability for acts of agents limited under, 3887.

Mersey Dock Trustees v. Gibbs (1866, L.R., 1 H.L., 93), 668, 691.

Meux v. Maltby (1818) 289, 358.

Midland Railway Company :

- Employs unionists and non-unionists without distinction, 4908.
- Strikes, 4900, 4906, 4929.
- Trade Union organisation approved by, 4909.

Minister of Commerce, appointment advocated, 3719 (*page* 223).

Mogul Steamship Company v. McGregor, Gow and Company, (23 Q. B. D. 611 ; 1892, A. C. 36.) :

- Combination in furtherance of labour, decision as to in, 153, 561.

Chalmers-Hunt, Mr., on 175.

"Dicta" in criticised, 790.

- Difficulties as to law in, views of Mr. Askwith as to, 141.

Facts in, 146.

- Judgment of Bowen L.J. in, 129, 130, 137, 140, 141, 146, 148, 150, 151, 179, 521, 614, 790, 795, 803, 825.

Judgment of Lord Halsbury, 794.

Nuisance in, 209.

Theory of facts in, commented on, 187.

Molestation and Obstruction by Workmen Act (1825), 91, 95, 102, 393, 636.

Monmouthshire and South Wales Coalowners' Association, *see title* Employers' Associations, *sub-heading* Monmouthshire, etc.

Monmouthshire Tinplaters' Dispute, difficulty as to enforcing award in, 1047.

Mulcahy v. Regina (1868, L.R., 3 H.L., 317), 140, 489.

Mullett v. The United French Polishers' London Society (*Times*, June 22nd, 1904) 1019.

National Amalgamated Sailors' and Firemen's Union policy of, 5376 (*page* 301).

National Association of Master Plasterers, *see title* Employers' Associations, *sub-heading* National Association, etc.

National Association of Operative Plasterers :

- Agreement with National Association of Master Plasterers, *see title* Employers' Associations, *sub-heading* National Association of Master Plasterers, *sub-sub-heading* Agreement with Trade Union.
- Membership, etc., 3590.
- Negotiations with Employers' Association, 4215.
- Non-Unionists, refusal to work with alleged, 4187.
- Sanction of Executive Council necessary before a strike can take place, 4102.

National Federation of Building Trade Employers of Great Britain and Ireland, *see title* Employers' Associations, *sub-heading* National Federation, etc.

National Federation of Merchant Tailors, *see title* Employers and Employers' Associations.

National Free Labour Association :

- Aims and objects of, 4610 (*page* 262).
- Banking account, registration, and foundation of, the Association, 4622.
- Comments on organisation and work of, 3709, 5443.
- Rules of, 4644.
- Strike agreement forms issued by, 4619.

Negotiations between Employers' Associations and Trade Unions, *see title* Employers and Employers' Associations, *sub-heading* Agreements.

Non-Unionists :

Association of Non-Unionists, *see that title*.

Attitude of Trade Unions towards, coercion, boycotting, etc., instances of, and views of witnesses as to remedying, 1012, 1055, 1319, 1362, 1396, 1589, 1592, 2027 (*page* 138), 2048, 2410 (*page* 161), 2476, 2490, 2476, 2587, 2678, 2792, 2935, 2982, 2998, 3166, 3477, 3671, 3698, 3719, 3791, 3911 (*page* 232), 3922, 4778, 4782, 4792, 5376 (*page* 302), 5410.

Board and lodging refused to, 1013, 1768.

Brace, Mr., Article justifying coercion, 1037.

Circulars, speeches, etc., as to coercion, 1013, 1055, 2982 (*page* 190), 5376.

Discretion of Court as to, legality of, 2814.

Fining of Non-Unionists, instances of, 4778, 4782, 4792.

How far justifiable, 2795, 2935, 3252.

Interference with employment, demands for dismissal, etc., instances of, and views as to prevention of, 2369, 2390, 2410 (*page* 160), 2476, 2982, 2998, 3252, 3362, 3396, 3440, 3477, 3824, 3863, 3911, 3922, 3956, 4002, 4653, 4671, 4704, 4752, 4765.

Persuading Non-Unionists to cease work should be illegal, 2998.

Recent decisions, effect of, on attitude towards Non-Unionists, 1732, 3911, 3922.

Refusal to work with Non-Unionists, 2547, 2587, 2654, 2656, 2975, 3665, 4752, 4778, 4990, 4996, 5128.

(*see also title* Strikes, *sub-heading* Non-Unionists, strikes against).

Ships built by firms employing Non-Unionists boycotted by the union, 4739.

Strikes against Non-Unionists, *see title* Strikes, *sub-heading* Non-Unionists.

Employers' carelessness as to charges made against Non-Unionists by Unionists, 3671, 3704.

Lighterage trade, employment in, 2651.

National Free Labour Association, *see that title*.

Protection of, views as to, 2975, 3013, 3719, 3753.

Report of Royal Commission on Trade Unions 1867-9, as to, 1170, 1171.

North-East Coast Ship Repairers' Association, *see title* Employers' Associations, *sub-heading* North-East Coast, etc.

Northumberland and Durham Coalowners' Associations :

Agreements and negotiations with workmen, 1412, 1426, 1427, 1433.

Aid rendered by, to members struck against, 2770, 2906.

Proposed legislation re Trade Unions, views as to, 1408.

Nuisance :

Conspiracy might be treated as, 203, 214, 216, 471.

Mogul case, nuisance in, 209.

Peaceful persuasion, when indictable as a nuisance at Common Law, 118, 119, 464.

Proposed legislation re Trade Unions, would create a nuisance, 1408, 1940, 2027 (*page* 137), 2029 (*page* 142), 3208 (*page* 202), 3911, 3947.

Remedies for, 478.

O'Connell v. The Queen (11, Cl. & F., 155), 140.

Old v. Robson (1890, 59 L.J.M.C., 41), 242.

Operative Stonemasons' Society :

Fines levied by, 995.

Prohibits even non-members from working for employers struck against, 4792.

"**Oppressive Combination**," definition of, 631, 840, 911.

Peaceful Persuasion :

Acts of Parliament in relation to :

Act of 1859 as to, 96, 396.

Conspiracy and Protection of Property Act, 1875 :

Peaceful persuasion not allowed under, 104, 109, 411, 415.

Words as to peaceful persuasion, why left out in the Act, 104.

Criminal Law Amendment Act 1871 as to, 104, 397.

History of, 91.

Molestation and obstruction of Workmen Act (1825), 91, 95, 102, 393, 636.

Advantages of statutory over Common Law remedy, 121.

Cases as to :

Bailey v. Pye, 3208, 3240.

Banister Bros. and Moore v. Almond and others (1901) 121.

Charnock v. Court (1899) 116, 459.

Lyons v. Wilkins (1896), 110, 118, 120, 412, 413, 459.

First held illegal, in 114.

Judgment in, views of Mr. Asquith as to, 111.

Remedy in, followed in other cases, 121.

R. v. Bauld (1876) 104, 106, 110.

R. v. Hibbert (1875), 104.

R. v. Selaby (1847) 95.

R. v. Shepherd (1869) 102, 103.

Unaffected by Allen v. Flood, 111.

Walters v. Green (1899) 116.

Contrasted with picketing for purposes of information, 3209.

History of, 91.

Leads to intimidation, and should be made illegal, 415,

435, 1246, 1261, 1264, 1408, 1474, 1585, 1589, 1647,

1762, 1769, 1897, 1899, 1908, 1915, 1927, 1931,

1938, 1948 (page 132), 1964, 1967, 2027 (app.

Nos. 6 and 7 page 141) 2029, 2116, 2121, 2139, 2171,

2173, 2363, 2410 (page 160) 2607, 2608, 2662 (page

173), 2674, 2678, 2693, 2695, 2959, 2975, 2982, 3010,

3021, 3046, 3061, 3070, 3208, 3209, 3403, 3477, 3610,

3719, 3749, 3805, 3920, 4046, 4088, 4102, 4221, 4228,

4271, 4277, 4281, 4333 (pages 247, 248), 4457, 4610

(page 259), 4611, 4653, 4752, 4769, 4814, 4818, 4912,

4979, 5012, 5019, 5044, 5089, 5165, 5173, 5183

(page 293), 5265, 5378 (page 303), 5426.

Difficulty of proving intimidation, 1650, 1651,

1667, 5390.

Nuisance, when indictable as, at Common Law, 118, 119, 464.

Opinions in 1895 as to legality of, 110.

Proposed legislation *re*, see *title* Proposed Legislation *re* Trade Unions, *sub-heading* Picketing and Peaceful Persuasion, proposals as to,

Picketing :

Abolition of, advocated, 1590, 1659, 1671, 1843, 1951,

2162, 2959, 2979, 2992, 3010, 3067, 3402,

3495, 3531, 3791, 3798, 4047, 4083, 4126, 4250, 4277,

4334, 4679, 4760, 4775, 4787, 4834, 5376 (page 303),

5397, 5438.

Views of witness that this is unnecessary, 1898,

Attending "to obtain or communicate information" :

Act of Parliament referring to, see *title* Conspiracy and Protection of Property Act, *sub-heading* Section 7, qualifying Clause.

Contrasted with peaceful persuasion, 3209.

Not objected to, 5269.

Numbers, effect of on, 1633, 1654, 1662, 1671,

1927, 1937, 2695, 2731, 3606, 4333 (page 248),

4614, 4653, 5020, 5044, 5064, 5089, 5113, 5161,

5394.

Objectionable and unnecessary, 2358, 2662 (page

173), 2678, 2680, 2731, 3410, 3911, 3917, 4333

(page 248), 4814, 4834, 5376 (page 303), 5440.

Proof as to motive, difficulty of, 5381.

(see also *title* Peaceful Persuasion, *sub-heading*

Leads to intimidation).

Picketing—cont.

Building Trade peculiarly liable to, 1948 (page 134).

Collieries specially liable to injurious picketing, 1772

Continuance of strikes, effect of on, 1589.

Extent to which allowable, 1918.

Gas or railway strikes, serious effects in, 2748.

Howell, Mr., views of, that picketing is no longer necessary or advisable, cited, 5376 (page 303).

Intimidation resulting, 1589, 1661, 1761, 1835, 1843,

2352, 2662, 2678, 2693, 2694, 2707, 2721, 3208, 3606,

4447, 5376 (page 302), 5415.

Is the chief object of picketing, 4653 (pages 263 and 264).

Illegal picketing is the only effective kind, 1948 (page 132), 4621.

(See also *title* Peaceful Persuasion, *sub-heading* Leads to intimidation).

Lanarkshire Association, Report in 1894 as to, 1589.

Law as to :

Abolition of picketing advocated, see *sub-heading* Abolition, etc.

Is satisfactory and should be maintained, 1929, 3719 (page 222), 4921, 5019, 5165.

Reasons for provision of a statutory remedy, 482.

Recent legal decisions, see *that sub-heading*.

Proposed legislation as to, see *title* Proposed Legislation *re* Trade Unions.

Lighterage business, ease with which picketing is carried on in, 2662 (page 173).

Magistrates, attitude of, in cases of, 5268, 5391, 5406. (See also *title* Strikes, *sub-heading* Magistrates).

Peaceful persuasion, see *that title*.

Police protection, views as to, 1898, 1905, 3361, 4778 (page 271), 4789, 4804 (page 302).

Proposed legislation as to, see *title* Proposed Legislation *re* Trade Unions.

Quarrying trade, special objections to in, 4752.

Recent legal decisions, effect of on, and views of witnesses that they should be maintained, 2410 (page 160), 2607 (page 171), 2662 (page 173), 2707,

2721, 4333 (page 248), 4610 (page 262), 4752.

Royal Commission on Trade Unions 1867, Report of on, 1171.

Shipbuilding trade, peculiarly liable to injurious picketing, 4653.

Shipping Trade, peculiarly liable to, 5376 (page 302), 5400, 5427.

Trade Unions in relation to :

Attitude as to, 1585, 1836.

"Outsiders" employment and payment by, for picketing purposes, 1289.

Sums paid for picketing purposes, 1585.

Pickles v. the Bradford Corporation, (1895, A. C. 587), 160, 798, 801, 803.

Piecework :

Attitude of Trade Unions towards, 987, 1379.

Strike of Taff Vale Fitters as to, 957, 961, 1354, 1362.

Pink v. Federation of Trade Unions (1892, 67, L.T., 258), 19.

Police Protection during Strikes, 1948 (page 134), 2607, 2610, 3360, 3362, 3417, 3809, 3853, 4333, 4378, 4778 (page 271), 4789, 4804 (page 302), 5256, 5376 (page 302), 5400, 5434.

Poulton v. London and South Western Railway Company (2 L.R.Q.B., 540), 693.

Proposed Legislation *re* Trade Unions :

General references to proposed legislation.

Beasley, Mr., evidence of on this point agreed with by Mr. Livesey, 4333 (page 247).

Conspiracy, law as to, proposed amendment, 86, 138, 237, 1408, 1534, 2027 (pages 137 and 138), 2693, 3606, 3791, 3911, 3947, 4815, 5165, 5376 (page 302).

Extends to civil proceedings immunity from punishment under Act of 1875, 1222.

Copies of Bills handed in, 86.

Ellis, Mr., memorandum by, agreed with by Mr. Baird, 1580.

Employers, application of to, 1197, 1211, 1222, 1269 (page 99), 1281, 1736, 2769, 2826, 3911.

Freedom of contract would be interfered with by, 3477.

Proposed Legislation re Trade Unions—cont.**General references to proposed legislation—cont.**

Guthrie, Mr., evidence as to, agreed with by Mr. Baird, 1583, 1584.

Justification alleged by Trade Unionists for, 1166.

Liability of Trade Unions, proposals as to, views of witnesses as to, 1408 (*page* 107), 1412 (*page* 109), 1534, 1596, 1617, 1709, 1900, 1901, 1932, 1948 (*page* 132), 2163, 2410 (*page* 161), 2607 (*page* 171), 2662 (*page* 174), 2678, 2693, 2722, 2835, 2841, 2982, 3051, 3052, 3060 (*page* 196), 3066, 3208 (*page* 202), 3237, 3536, 3558, 3606, 3640, 3719 (*page* 222), 3751, 3752, 3753, 3791, 3900, 3909, 3911, 4012, 4031, 4042, 4102, 4234, 4248, 4277, 4289, 4333 (*page* 248), 4367, 4411, 4610 (*page* 261), 4653 (*page* 264), 4752, 4778, 4785, 4816, 4857, 4927, 4979, 5019, 5089, 5165, 5179, 5183 (*page* 294), 5370, 5376 (*page* 302).

Proposals as to in the different Bills, contrasted, 2027 (*page* 138).

Nuisance would be created by, 1408, 1940, 2027 (*page* 137), 2029 (*page* 142), 3208 (*page* 202), 3911, 3947.

Picketing and Peaceful persuasion, proposals as to, views as to, 90, 1408, 1436, 1462, 1584, 1585, 1589, 1761, 1897, 1917, 1927, 1937, 1948 (*page* 132), 2027 (*page* 137), 2114, 2139, 2170, 2410 (*page* 159), 2607, 2662 (*page* 173), 2678, 2693, 2707, 2769, 2954, 2956, 2973, 2982, 3003, 3014, 3021, 3060, 3061, 3070, 3208, 3477 (*page* 211), 3495, 3530, 3606, 3671, 3719 (*page* 222), 3749, 3791, 3909, 3911, 3917, 4042, 4102, 4221, 4247, 4271, 4277, 4281, 4333 (*pages* 247, 248), 4610 (*page* 269, 260, 261), 4653, 4752, 4778, 4804, 834, 4912, 4979, 5019, 5089, 5165, 5178, 5183 (*page* 293), 5265, 5220, 5376 (*page* 303).

Definition of peaceful persuasion not given, 3753.

Restriction suggested in any legislation as to, 2982, 3013.

Strikes and trade disputes would probably be more frequent under, 2769, 2826, 2928, 3719 (*page* 222).

Particular Bills, references to:

Dilke, Sir Charles, Bill of 1903, 1209.

Actions re Breach of contract and interference with business, clause as to, 1209, 1210, 1213, 1217, 1218, 2027 (*page* 138).

"Trade Dispute" in meaning of, 1745.

Effect of as regards employers, 1211, 1222.

Dilke, Sir Charles, Bill of 1904, 1269.

Action re Breach of contract, and interference with business, clause as to (almost identical in both bills) 1735, 1859, 1922, 2027 (*page* 138), 2662 (*page* 174), 2678, 3606, 3911, 4221, 4336 (*page* 248), 4366, 4928, 5167.

Effect of, as regards employers, 1269, 1736.

Liability of Trade Unions, clause as to, 1739.

Peaceful persuasion and picketing, proposals as to, 1241, 4836.

Paulton, M., Bill of 1904, 1215, 4253 (*page* 248):

Conspiracy, law of, effect of on, 1218.

Effect of as regards employers, 1281.

Liability of trade unions, clause as to, 1278, 1280, 1285, 1287, 3911.

Bell, Mr., speech on, 1281.

Non-Unionists employed and paid by Trade Unions for picketing, question as to liability under, 1289.

Picketing, clause as to, would legalise attendance on private premises, 4333 (*page* 248), 4805.

Shackleton, Mr., Bill of 1903, 1269:

Breach of contract legalised by, 1269.

Liability of Trade Unions, clauses as to 2707.

Ruled out by the Speaker, and re-introduced in Mr. Paulton's Bill of 1904, 1269, 1277.

Picketing, law relating to, effect of on, 1269.

Woods, Mr. S., letter as to, 3809, 3842.

Webb, Mr. and Mrs. Sidney, draft Bill as to, 87.

Whittaker, Mr., Trades Unions and Trades Disputes Bill, 1905, *see Appendices, page* 93.

Provident Nominations and Small Intestacies Act 1883-251.**Quinn v. Leatham (1901, A.C. 495):**

America, use made of the doctrines of in, 126.

Brampton, Lord, judgment in, 140, 181, 660.

Civil liability for conspiracy in, 237, 820, 823.

Not affected by Trade Union Act of 1871, decision as to, 639.

Not affected by Conspiracy and Protection of Property Act of 1875, decision as to, 820, 836, 909, 2225, 2236, 2241.

"Conspiracy to injure," doctrine of, 151, 152, 155, 196, 533, 542, 568.

Directions given to the jury by FitzGibbon, L. J., 180.

Effect of decision on trade disputes, and views that it should be maintained, 1784, 2410 (*page* 160, 162), 2420, 2520, 2521, 5131.

Facts in, 151 (*page* 18), 152, 3208 (*page* 202).

Haldane, Mr., article comparing Quinn v. Leatham with Barber v. Penley, 203.

Halsbury, Lord, dicta in, 130, 136, 155, 526, 2241.

Head-note in, 945.

Lindley, Lord, judgment and dicta in, 140, 181, 217, 231, 232, 237, 527, 529, 608, 800, 926, 931, 2410 (*page* 160), 2520, 3208 (*page* 202).

Macnaghten, Lord, dicta in, 140, 196, 533, 542.

Motive or malice, doctrine as to, 518, 811, 2274, 2279.

Reasons for the action—oppressive combination, black lists, etc., 911, 939, 2189, 2251, 2256, 3208 (*page* 202), 3243, 3263, 3341, 3384.

"Trade Dispute," conflicting decisions as to whether, 137.

R. v. Bauld (1876 13 Cox, C. C. 282), 104, 106, 110.

R. v. Bunn, 603, 606.

R. v. Drulitt, 223, 596, 845.

R. v. Journeymen Tailors of Cambridge, 140.

R. v. Hibbert (1875, 13 Cox. C. C. 82), 104.

R. v. Mawbey, 140, 818, 819.

R. v. Parnell v. Others, (14 Cox C. C., 508), 140.

R. v. Rowlands 148, 223, 603, 606.

R. v. Selsby (1847, 5 Cox C. C. 495) 95.

R. v. Shepherd (1869, 11 Cox. C. C., 325), 102, 103.

R. v. Warburton (L. R. J. C. C. 276), 140.

Railway Companies:

Aid rendered by to other railways struck against, 4944.

Amicable relations with employees, 4798.

Contracts with employees:

Breach of, peculiar position as to, and views as to special legislation for, 1075, 1296, 1335, 4831, 4897, 4934.

Long contracts disapproved, 4885.

Suggestion that agreement similar to that made by South Metropolitan Gas Company, might be adopted, 4402, 4406.

Great Northern (Ireland) Railway Strike, 5183 (*pages* 292 and 293), 5184.

Great Western Railway Pension Fund, 1099.

Midland Railway Company:

Attitude towards Trade Unions, 4908, 4909.

Strikes in 1878 and 1887, 4900, 4906, 4950.

Railway Associations, capital represented by and number of employees, 4797.

Strikes against not so effective as in other cases, 4904, 4938.

Taff Vale, *see that title*.

Total number of employees, Board of Trade returns as to, 968.

Trade Unions, attitude of Railway Companies towards, 5183 (*page* 293), 5193, 5324, 5330, 5371.

Railway Companies' Association:

Aid rendered by to members struck against, 4944.

Interests represented by, 4797.

Railway Employees:

Amalgamated Society of Railway Servants, *see that title*.

Number of, 968, 4797.

Strikes, *see that title, subheading* Railway Men's Strikes.

Taff Vale, *see that title*.

- "Railway Review,"** attitude towards Taff Vale Railway Company:
Articles inciting men against the Company, 1106, 1110, 1137.
Letters, 1102, 1107.
- Read v. Friendly Society of Operative Stonemasons** (1902, 2 K. B. 88 and 732), 196, 197.
- Registration of Trade Unions, see title Trade Unions, subheading Status.**
- Restriction of Output caused by Trade Unions**, 1002, 1022, 1027, 1316, 1362, 1604.
Checkweighmen causing, 1604.
Decline in coal output per man, 1001.
Intimidation, method used, 1029.
Legislation prohibiting, suggestion as to, 1316, 1317.
Probable Difficulty of, 1032.
Return showing restriction in coal output, 1001, 1019.
"Stop Day" action in relation to, 1009.
Strike resulting, 1024, 1032, 1742.
- Rigby v. Connel** (1880, 14 C. D. 482), 243.
- Rogers v. Rajandre Dutt** (13 Moore P.C. 209) 194 791, 792.
- Royal Commission on Labour 1891-4, Evidence and Recommendations of:**
Agreements between employers and Trade Unions, evidence as to, 362, 365, 372, 1412 (*page* 109), 4077, 4527.
Liability as to carrying out agreements, observations on, 1412, 4527.
Arbitration and Conciliation, importance of, 362, 365, 372.
Conspiracy and Protection of Property Act 1875: Definition of a Trade Union includes Employers' Associations, 1197.
Recommendations as to, 223.
Intimidation, report on, 223, 224, 458.
Liability of Trade Unions, report on, 23, 24, 42, 48, 81, 82, 83, 284.
Exceptional legal position of Trade Unions, extent to which recognised, 1184.
Reference to decision in *Temperton v. Russell*, 1195.
Moral compulsion and pressure exerted by Trade Unions, reference to, 3012.
Non-Unionists:
Evidence as to Free Labour, 3713.
Labour Report on attitude towards, 1055.
Peaceful Persuasion, evidence as to, 110.
Pollock, Sir F., Memorandum on law of Trade Unions, 1186, 1191.
Railway Companies, peculiar position of, as regards strikes, evidence as to, 1073, 1077.
Status of Trade Unions:
Incorporation proposals as to, 81, 82, 83, 284.
Superannuation allowances, members of Trade Unions deprived of, evidence as to, 3043.
- Royal Commission of 1874-5 on Master and Servants Act 1867 and on Criminal Law Amendment Act 1871:**
Recommendations of:
Principle on which Conspiracy and Protection of Property Act was passed, 237, 642.
Tort committed by combination of persons, report as to, 142, 143, 651.
- Royal Commission on Trade Unions 1867-9, Evidence and Recommendations of:**
Arbitration and conciliation, importance of, 362.
Combination, right of, 635, 1170, 1171.
Erle, Sir William, memorandum by on freedom in disposition of labour and capital, 1179.
Funds of Trades Unions:
Protection of, against malversation only asked for before, 1169.
Separation of, 979, 1174.
Harrison, Mr., and Mr. T. Hughes, Memorandum of, 1179.
- Royal Commission on Trade Unions 1867-9—cont.**
Liability of Trade Unions:
Exemption from responsibility never suggested, 1169, 1170, 1180, 1181.
Memorandum of Mr. F. Harrison and Mr. T. Hughes, 1179.
Memorial from General Builders' Association as to, 1170.
Questions as to issued, and answers received, 1149.
Report on, 267, 1170, 1171, 4425.
Minority Report, 42, 979, 1173, 4426.
Quoted by Lord Macnaghten in *Taff Vale Case*, 1179.
Taff Vale Case, effect of, in removing difficulties as to bringing Trade Unions within the law, 4425.
Non-Unionists, protection, 1170, 1171.
Picketing, report on, 1171.
Proposed legislation *re* Trade Unions, recommendations as to, 1171.
Questions issued and answers received, 1169, 1170.
Status of Trade Unions:
Incorporation suggested, 267.
Registration, report on, 1171.
Strikes, rights of workmen as to, 635, 1171.
Tort committed in pursuance of combination, report on, 650.
- Salt Union, Limited**, constitution and objects of, 3603.
- Scotland**, strikes in, chief cause of, 1588.
- Scottish Coal Trade Conciliation Board:**
Constitution and scope of, 1715.
Trade Unions, how far an essential element in, 1721, 1728, 1729.
- Scottish Co-operative Society v. Glasgow Fishers** (1898) 146, 562.
- Scottish Mine-owners' Defence and Mutual Insurance Association:**
Deals with Workmen's Compensation Act, 1724.
- Scottish Operative Tailors' and Tailoresses' Association:**
Boycotting, 5145.
Placarding by sandwichmen, instance of, 5089 (*page* 286, *col.* 2), 5134.
Rules, 5147.
- Shipbuilding Employers' Federation: see title Employers' Associations, subheading Shipbuilding, etc.**
- Shipowners' Liability**, limitation of, 3887, 4867.
- Shipping Federation:**
Account of origin, establishment, and working of, 537C (*page* 301), 5439.
Depôt ship provided by for men carrying on work during strikes, 5376 (*page* 302), 5403.
- Shipwrights' Society of Newport**, expulsion of members, 983.
- Skinner v. Gunton** (1 William Saunders, 23q), 649.
- Sliding Scale Agreement:**
Conciliation Board under, 1000, 1001.
Gas Companies, introduction in, 4569.
Royal Commission on Labour 1891-4, report of, on importance of sliding scales, 362.
South Wales Miners' Federation Sliding Scale Agreement, 997, 998, 1000, 1001, 1730a.
Difference between existing agreement and that of 1903, 1730a.
- South Metropolitan Gas Company:**
Agreements with employees, 4333 (*pages* 247, 249), 4346, 4399, 4582.
Adoption of this principle by employers generally, difficulty of, 4472, 4509, 4586, 4607.
Railways might adopt similar agreements, 4402, 4406, 4607.
Sliding Scale, introduction of, 4569.
Trade Unions, attitude towards, 4399, 4569.
Co-partnership arrangement with employees, 4333 (*pages* 248, 249), 4347, 4569.
Strike in 1889, 4333 (*pages* 247, 248), 4362, 4378, 4569, 4571.
Trade Unions have no influence over, 4333 (*page* 247), 4569.

South Wales Miners' Federation :

Account, general, of the Federation, 996, 1730a.
Non-Unionists, attitude towards, 1730a (*page* 123).
Circular as to co-ercion, 1013.

Rules, *re* strikes, arbitration and Conciliation, 997.
Sliding Scale Agreement, 997, 998, 1000, 1001, 1730a.

Strikes :

Great Western Colliery, 1024, 1032, 1053, 1201, 1779, 1780, 1890.

Number of strikes since establishment of, 997, 998, 1730a, 1887.

Tower and Aberdare Merthyr Colliery, 1033, 1034.

Taff Vale Railway Company, contact with, 956, 997.

South Yorkshire Coalowners' Association, *see title*
Employers' Association, *sub-heading* South Yorkshire, etc.

Staffordshire Potteries Manufacturers' Association, *see title* Employers' Association, *sub-heading* Staffordshire, Potteries, etc.

Stevenson v. Newnham (1853, 13 G.B. 285) 150.

Stonemasons' Society, fines levied by, 995.

Strikes and Stoppages of Work :

Advising or inducing men to strike, views of witnesses as to legality of, 1493, 1532, 1674, 2285, 2382, 2455, 2492, 2778, 3090, 4133, 4682.

Act of striking, and inducing to strike, distinction between, 1488, 1523, 1549, 1673.

Delegates of Trade Unions ordering strikes without the authority of the executive, 4682, 4686.

Payment of money to men not to work for a certain employer, 3174, 3268.

Agreements between employers and Trade Unions preventing strikes, *see title* Employers' Associations, *sub-heading* Agreements.

Against Employers who have no concern in the dispute, 1409, 1496, 1531, 3060, 3499, 3512.

(*See also sub-headings* Defaulting Trade Unionists; Demarcation of Work; and Fines, payment of).

Apprentices, questions as to, causing strikes, 3060, 4757, 4773.

Arbitration, *see titles* Conciliation and Conciliation Boards.

Ashton Strike, violence in, 3606.

"Blacklegs," *see sub-heading* Men carrying on work during.

Bleachers and dyers' strike, intimidation in, 5019.

Boot and Shoe trade, strike of 1895, intimidation in, 4221, 4271.

Breach of contract in :

Boilermakers' Society, attitude towards, 4006, 4009, 4635.

Notices in relation to, *see sub-heading* Notices.

Proceedings against individuals ineffectual, 1862.

Proposed Legislation for restriction of actions as to, *see title* Proposed Legislation *re* Trade Unions, *sub-heading* Particular Bills.

Public safety in relation to, *see sub-heading* Public safety.

Classification of according to objects of, 3074.

Collieries and Mining Industry generally :

Aberdare, 1761, 1763, 1839.

Allanshaw Colliery, 1589.

Baljafray Colliery, 1589.

Bardykes Colliery, Blantyre, 1589, 1591, 1652.

Byers Green Colliery, 1412.

Cadzow Collieries, 1592.

Denaby Collieries, 27, 191, 624, 937, 2232.

Euston Colliery, 1412.

Felling Colliery, 1408, 1412, 1474.

Great Western Colliery (1903), 1024, 1053, 1779 :

Arbitrators' award violated, 1201.

Number of men implicated, and duration of the strike, 1032, 1780, 1890.

Hauliers' Strike, South Wales, 997.

Number of strikes and lock-outs in South Wales Collieries :

Board of Trade Returns, 1001.

Since establishment of South Wales Miners' Federation, 997, 998, 1730a, 1887.

Penrhyn Strike, 3308.

Sherburn Colliery, 1412.

Strikes and Stoppages of Work—cont.

Collieries and Mining Industry generally—*cont.*

Taff Vale Railway Company, effect on, of strikes in the mining industry, 957.

Tower and Aberdare Merthyr Colliery, 1033, 1034.

Trimdon Colliery, 1412.

Washington Colliery, 1412.

Conciliation, *see that title.*

Defaulting Trade Unionists strikes for coercion of views as to whether justifiable, 1409, 1595, 1730a, (*page* 123), 3911, 3933, 3946, 3979, 4187, 4201, 4204.

Demarcation of work as a cause of, 1973, 1991, 2411, 2533, 2590, 2597, 3060, 3477, 3500, 3590, 3940, 4743, 5165.

Settlement of by conciliation, 1947 (*page* 133), 2597.

Deputations in strikes and lock-outs should not number more than two men, 4042.

Discharge of workmen as a cause of :

Refusal of employers to discharge men, 1412, 3092.

(*see also sub-heading* Non-Unionists, strikes against).

Refusal of employers to reinstate men, 1412, 5183 (*page* 293), 5207.

Dock Strikes :

Dublin, 3809, 3853.

Hull, intimidation in, and inadequacy of police protection, 2954, 2957, 5376 (*page* 302).

Liverpool, 3853.

London, intimidation in, 3809, 3853.

Maryport, intimidation in, 5426.

Penarth Dock, stoppage as to Sunday work, 987.

Southampton, intimidation in, 4818.

Fines on Trade Union members, strikes to enforce payment of, 1408, 1412, 1474, 5072, 5079.

Gas workers' strike, 1899, 4333 (*pages* 247, 248) 4362, 4378, 4569, 4571.

Intimidation in strikes, *see title* Peaceful persuasion, *sub-heading* Leads to picketing, and *title* Picketing, *sub-heading* Intimidation.

Judicial Tribunal, special, to deal with Trade Disputes, advocated, 3495 (*page* 212).

Legality of strikes :

Conspiracy to injure, *see that title.*

Discussion as to legal and illegal strikes, 4782, 4794, 5166.

Discretion of courts as to, views as to, 2188, 2386, 2686, 3137.

Kay, L. J., dictum as to, 222, 584.

Limitation on the conduct of strikes, 595.

Lindley, M. R., dictum as to, 158, 595.

Right of workmen to strike, views of witnesses as to, 571, 575, 1673, 1996, 2208, 2216, 2880, 3074, 3495, 4976, 5236, 5341.

Royal Commission on Trade Unions, 1867-9, report of on, 635, 1171.

(*see also sub-headings* Non-Unionists, Notices and Sympathetic Strikes).

Lightermen's, London, 3671, 3698.

Magistrates' action as to, comments on, 1948 (*page* 133), 1970, 2614, 2707, 3208 (*page* 202), 3419, 3855, 4272, 5268, 5391, 5406.

Manufactured by Trade Union agitators, assertions as to, 3719, 4610 (*pages* 260, 261.)

Men carrying on work during strikes :

Board and lodging refused to, 3129, 4413.

Buying out of men by Trades Unions at end of strike, instance of, 3658.

Depôt ship provided for by Shipping Federation, 5376 (*page* 302), 5403, 5439.

National Free Labour Association, *see that title.*

Taff Vale Strike, *see that title, sub-heading* Men carrying on work.

Method of working a mine, dispute as to, Washington Colliery, 1412.

Methods leading up to a strike, 4610 (*page* 260).

Mining industry, *see sub-heading* Collieries and Mining Industry generally.

Non-Unionists, strikes against, 1010, 1033, 1130, 1409, 1415, 1496, 1589, 1591, 1592, 1652, 1730a, (*page* 123), 1749, 1768, 2678, 2975, 3060, 3190, 3811.

Action brought by Trade Union delegates against foreman, 1901.

Strikes and Stoppages of Work—cont.**Non-unionists, strikes against—cont.****Legality of:**

Present law as to, 938, 2252, 2281, 3911, 3924.

Views of witnesses as to whether such strikes should be made illegal, 1490, 1533, 1679, 1815, 2999, 3008, 3663, 3791, 3803, 3809, 3812, 3824, 3863, 3930, 4517, 4765, 4778, 4794, 4976, 5075, 5408.

Returns as to, 1010, 1032, 1730a.

State protection during, advocated, 3606 (*page* 216), 3664.

Taff Vale decision, effect of on or number of, 1731.

Not the strongest weapon of Trade Unions, 2721, 2856, 2859

Notices, strikes with, and strikes without:

Contrasted, 1877.

Not intimidation, when notice is given, 2090.

Number of strikes without notice, 1730a (*page* 123).

Pits stopped without notice, 1596.

Suggestion that notices should be compulsory, 2639, 2707, 5168.

Nottingham Lace-makers' Union inability to enforce its agreement with employers, 4532.

Organisation on both sides is the best way of preventing, 4077.

(*see also title* Employers and Employers' Associations, *sub-heading* Agreements and Negotiations with Trade Unions and *title* Trade Unions, *sub-heading* Advantages of existence of).

Over-time, strikes as to:

Engineers' shipbuilding yard, Jarrow-on-Tyne, strike without notice, 4711.

Question whether they should be made illegal, 4763, 4782.

Particulars as to strikes since 1894 (number of, intimidation etc.) 4610 (*pages* 261, 262).

Peaceful persuasion, *see that title*.

Penrhyn strike, violence and intimidation during, 3308.

Petty strikes, increase in number of, with increased strength of Unions, 2341.

Picketing, *see that title*.

Piecework—Taff Vale fitters strike, 957, 961, 987.

Expulsion of members, power of Union as to, exemplified in, 1354, 1362.

Police protection during, 1948 (*page* 134), 2607, 2610, 3360, 3417, 3809, 3853, 4333, 4378, 4778 (*page* 271), 4789, 4804 (*page* 302), 5256, 5376 (*page* 302), 5400, 5434.

Prevention of means suggested, 3719 (*page* 223), 4077, 4333 (*pages* 247, 249), 4346.

(*see also title* Employers and Employers' Associations, *sub-heading* Agreements and Negotiations with Trade Unions).

Public safety, trades in which affected by breach of contract or strikes, views as to special legislation for, 1075, 1296, 1335, 2721, 2748, 2754, 2861, 4277, 4333 (*page* 247), 4373, 4472, 4831, 4897, 4934.

Railway men's strikes, 4900:

Great Northern (Ireland) Railway, 5183 (*pages* 292 and 293), 5184.

Legislation, special, views as to whether necessary, 1075, 1296, 1335, 4831, 4897, 4934.

Midland Railway Company, strike against, 4900, 4906, 4950.

Not so effective as in other employments, 4904, 4938.

Taff Vale Strike, *see that title*.

Recent legal decisions, effect of, as regards number and conduct of strikes, 1731, 1749, 1779, 1784, 1853, 1948 (*page* 134), 1952, 2104, 3437, 4610 (*page* 262).

Restriction of output, strikes as to, 1024, 1032, 1742.

Right of workmen to strike, *see sub heading* Legality of strikes.

Shipwrights, Newport, strike as to full day for full day's pay, 984.

Statistics *re* strikes and lockouts, 11, 12, 700, 4610 (*pages* 261, 262).

Non-Unionists, strikes as to, statistics as to, 1010, 1032, 1730a.

Strikes and Stoppages of Work—cont.**Statistics *re* strikes and lockouts—cont.**

South Wales, statistics as to, 997, 1001, 1887.

Number of strikes since establishment of South Wales Miners' Federation, 997, 998, 1730a, 1887.

Without notice, number of, 1730a (*page* 123).

Subscriptions to strike funds from outsiders, question as to legality of, 937.

Sympathetic Strikes:

Coal trade, during dock strike (1899) 1895, 1902.

Comparison with general lockouts, 3624, 4214, 4256.

Gas workers strike (1889), 4333 (*page* 247), 4362.

Legality of, views as to, and as to whether they should be made illegal, 225, 226, 232, 233, 581, 585, 933, 1513, 1531, 1682, 1829, 2188, 2189, 2233, 2255, 2632, 2670, 2712, 2875, 3426, 3611, 4214, 4362, 4653 (*page* 264).

Taff Vale Railway Company, strikes in relation to, 957, 961, 997, 1000, 1010, 1022, 1070, 1354, 1362.

Reinstatement of strikers, practice as to, 992.

(*see also title* Taff Vale Strike in 1900).

Tailors' strikes:

Glasgow, Edinburgh, and Aberdeen, intimidation in, 5089.

Southport, 2702.

Threat to strike, legality of views as to, 2292, 2454, 3367, 3378, 3384, 4456, 4510, 4516, 5150, 5153.

Wages Questions:

Brickmakers' strike, intimidation during, 5173.

Legitimate reason for strikes, views as to whether, 2454, 3149, 3812, 3833, 3912, 3945, 4456, 4758, 4782.

Lightermen's strike, Port of London, (1900 and 1901) 2607, 2609, 2643.

Methods leading up to, 4192.

Watermen's strike, Cheshire (1892), 3606, 3611.

Men carrying on work during, bought out by Union at end of the strike, 3658.

"Working Black." Nottingham plasterers' strike as to, 4102, 4137.

(*see also titles*, Intimidation, Peaceful Persuasion, and Picketing).

Swaine v. Wilson (1890, 24 Q.B. 252) 242.

Sympathetic Strikes, *see* Strikes.

Taff Vale Case (1901, 1 K.B., 170 and A.C. 426):

Account, general, of the case, 13, 19.

Amendment of the law, proposals as to, 86.

General law of agency possibly needs amendment, 2722, 2835.

Cause of action, 1152, 1155.

Connection of Amalgamated Society of Railway

Servants with the strike, allegation as to, 1123.

Corollary of, in conspiracy, 788, 789.

Damages in, 1165.

Decision in, 13, 19, 317, 1155, 2721, 2967.

Effect of, in reducing numbers and violence of trade disputes, 1596, 1731, 1749, 1779, 1783, 1853, 1948 (*page* 134), 1952, 2410 (*pages* 160, 161), 2701, 2968, 2971, 3060 (*page* 196), 3065, 3809 (*page* 228), 3856, 4610 (*pages* 261, 262); 4699, 4715, 4752, 4980.

Grounds for, 313.

Halsbury, Lord, judgment in, 19.

Macnaghten, Lord, decision in, 2410 (*page* 161).

Minority Report of Royal Commission on Trade Unions, 1867, quoted, 1179.

Maintenance of decision, views as to, 1596, 1617, 1921, 2410 (*page* 162), 2420, 2520, 2521, 2967, 3237, 3536, 3558, 3750, 4051, 4102, 4104, 4232, 4333 (*page* 248), 4411, 4610 (*pages* 261, 262), 4767, 4933.

Not contrary to what law was intended to be, 1169, 1179, (*page* 92), 1181.

Followed in recent cases, 27.

How far liability of trade union funds was argued in, 317.

Incorporation of Trade Unions, effect of, in relation to decision in, 85.

Injunction in, 13, 14.

"Picketing" in, nature of, 124.

Taff Vale Case—cont.

- Pink v. Federation of Trade Union (1892), relation to, 19, 22, 23.
- Proceedings in, 1155.
- Registration of Trade Unions, effect of, in relation to decision in, 52, 53.
- Signalman Ewington, case of, evidence as to, 1110, 1125, 1146.
- Temperton v. Russell, relation to, 23, 27.
- Trade Unions, opinion of, as to, 19, 89, 264.
- Trust deeds, how far a protection against decision in 659.

Taff Vale Railway Company :

- Arrangement as to building and repairs of locomotives and rolling stock, 958.
- Attitude towards trade unions—No question asked as to membership, etc., 960, 994, 1085.
- "Blacklegs," continued employment of, strike as to, threatened, 1154.
- (Committee (Men's):
 - Appointed and paid by Amalgamated Society of Railway Servants, 1070.
 - Composition of, 1070, 1073, 1082.
 - Interference with working of the Company, 1070.
 - No communication with, between 1895 and 1900, 1097.
 - Refusal of the Company to treat with, 1071, 1073, 1083, 1084.
 - Treated as an attack on the union, 1085.
 - Resolution as to notices of dismissal sent to men during depression, 1081.
- Coal carried by, 954, 997.
- Conditions of service in, comparison with other companies, 1098.
- District covered by, 952, 953.
- Engine repairing done by, 958, 959.
- Grants made by Amalgamated Society of Railway Servants to men dismissed by the Company, 1085.
- Mabon's day abandoned after strike of 1898, 1010.
- Pension scheme adopted by, 1099.
- Piecework adopted, 995.
- Fitters' strike resulting, 957, 961, 987, 1354, 1362.
- Regulations for signalmen, strike threatened as to, 1078.
- Signalman Ewington, alleged dismissal of, 1110, 1137.
- Arbitration refused by the Company, 1121.
- Decision of men to strike, 1119.
- Pretext for the strike of 1900, 1110, 1125, 1144, 1146.
- Telegram from President of the Board of Trade as to, 1136.
- Strikes in relation to, 957, 961, 997, 1000, 1010, 1022, 1070, 1354, 1362.
- Re-instatement of strikers, practice as to, 992.
- (*see also title Taff Vale Strike in 1900.*)
- Trade unions brought into contact with, 956, 957, 966
- Wages, concession as to, previously to strike of 1900, 1144.

Taff Vale Strike in 1900 :

- Account, general, of the strike, 1070, 1096, 1102-1155.
- Amalgamated Society of Railway Servants, connection with the strike :
 - Action subsequently brought against the Society by the Company, *see title Taff Vale Case.*
 - Articles, letters, and statements in 1899 and 1900, 1102, 1106, 1107, 1125, 1134, 1136, 1137.
 - Barry and Rhymney men, action as to, 1106, 1110, 1145, 1152.
 - Financial support to strikers, 1144, 1149.
 - Amount of disbursements, 1149.
 - Availability of funds for strike purposes, statement as to, 977.
 - Position of Mr. Bell and Mr. Holmes in relation to the strike, 1150.
 - Advice by Mr. Holmes to men to leave before expiry of notices, 1144.
 - Programme of demands in 1899, 1106.
 - Signalman Ewington's case made a pretext for the strike, 1110, 1121, 1125, 1146.

Taff Vale Strike in 1900—cont.

- Articles, letters, etc., inciting to strike, 1102, 1106, 1107, 1125, 1134, 1136, 1137.
- Ballot previously to the strike, 1110, 1121.
- Barry and Rhymney men, in relation to, 1106, 1110, 1145, 1152, 1153.
- Cause of, 1102, 1125, 1134 :
 - Board of Trade Report on, 1155.
 - Signalman Ewington, case of, in relation to, *see title Taff Vale Railway Company, subheading Signalman Ewington.*
- Collieries, and other industries, effect of strike on, 1146, 1308.
- Conciliation, action as to, 1066, 1107, 1136.
- Driver of hydraulic engine, Penarth Docks, dismissal of, 1089.
- Men carrying on work during the strike, 962, 1061.
- Arrangement as to, at end of the strike, 1061, 1153, 1154.
- Attitude of Trade Unionists towards, outrages, etc., 1055, 1146, 1165.
- Board and lodging refused to, 1015.
- Conditions of service, accommodation, etc., 1146.
- Disbursements by Amalgamated Society of Railway Servants, in respect of sending back "Blacklegs," 1149.
- Number of Non-Unionists, accommodation provided, etc., 1061.
- Negotiations between the Company and Employees, and refusal of the Company to meet Trade Union representatives, 1108, 1109, 1137.
- (*see also subheading Conciliation.*)
- Notices :
 - Handed in, 1125, 1134, 1135.
 - Holmes, Mr., advice to men to leave before expiry of notices, 1144.
 - Number of men who had only partially worked out notices, and number giving no notice, 962, 1144, 1145.
 - Summonses against strikers for breach of contract, 1166.
 - Withdrawal of, appeal for, issued by Manager of Taff Vale Company, 1143.
- Number of strikers, 1061.
- Period of duration, 1095.
- Picketing, during, 1070, 1146 (*page 85*),
 - Arrangements as to by Amalgamated Society of Railway Servants, 1144.
 - General as well as local, 1149.
 - Nature of, 124.
 - Non-Unionists employed and paid by Union for picketing, 1289.
- Programme of demands drawn up in 1899, 1106, 1127.
- "Railway Review," letters and article, 1102, 1106, 1110, 1137.
- Re-instatement of strikers, arrangement as to, 1153.
- Summonses against strikers for assault, breach of contract, etc., 1165.

Tallow Conspiracy Case, 184.

Temperton v. Russell (1893 1 Q.B., 715), 23, 27, 148, 150, 151, 177, 237, 276, 299, 516, 901, 909, 1184, 1193.

Thomas v. Amalgamated Society of Carpenters ("Times," April 28th, 1902), 184.

Tinplaters', Monmouthshire, refusal to recognise award re Canadas, 1047.

Tort of Trade Interference, Sir W. Erle on, 501.

Trade Disputes, *see Strikes.*

Trade Disputes Bills, *see title Proposed Legislation re Trade Unions.*

Trade Union Act 1871 :

- Absence of legal claim to redress under 1019.
- Applicable to all Unions, registered or unregistered, 311.
- Based upon minority report of Royal Commission on Trade Unions 1867, suggestion, 1173.

Trade Union Act 1871—cont.

Cases as to:

- Chamberlain's Wharf Case (1900), 242, 243.
- Duke v. Littleboy (1880), 242.
- Howden v. Yorkshire Miners' Association (1903), 244.
- Old v. Robson (1890), 242.
- Swaine v. Wilson (1890), 242.
- Winder v. Kingston-on-Hull Corporation (1888), 242.
- Wolfe v. Matthews (1882), 242.
- Civil liability not affected by, decision in *Quinn v. Leatham* as to, 639.
- Disability to sue for contractual rights under, 987.
- Effect of Taff Vale decision on, 57.
- Freedom of Trade Unions from liability to be sued, not suggested in, 1179.
- Inability to sue Trade Union agents under, 61, 72, 74.
- No enactment as to liability of Trade Unions to be sued contained in, 1155.
- Objects of, 51, 392, 397, 636, 644.
- Partial repeal of Section 4, views as to, 366; 3021 (page 192): 3022.
- Section 3 of Conspiracy and Protection of Property Act, 1875, should be read in conjunction with Section 4 of this Act, 4610 (page 260).

Trade Union Act Amendment Act 1876:

- Case as to—*Crocker v. Knight* (1892), 250; 251.
- Definition of a Trade Union in, 1197.
- Disability to sue for contracted rights under, 987.
- Freedom of Trade Unions from liability to be sued, not suggested in, 1179.
- No enactment as to liability of Trade Unions to be sued contained in, 1155.

Trade Unions:

- Absence of legal remedy against, on the part of members, 983, 1019, 3021, 3022, 3024, 3045, 3753, 4436.
- Case exemplifying, 1019.
- Accounts:
 - Compulsory audit of, advocated, 3555, 3753, 3771.
 - Falsification, alleged, 3719.
- Actions by Unions against members, qualified approval of, 4033.
- Advantages of the existence of Trade Unions, particularly with regard to negotiations for settlement of disputes, 364, 2772, 2780, 2857, 2927, 3366, 3582, 4078, 4576, 4632, 4653 (page 264), 4909, 5046.
- Agency of:
 - Governed by general law, 336, 337, 758.
 - Amendment of general law of agency possibly desirable, 2722, 2835.
 - Inability to sue agents under Trade Union Act of 1871, 61, 72, 74.
 - Scope of authority, discussion as to, 689, 701, 714, 771, 2836.
 - Wrongful acts by agents, difficulty in defining, 729, 739, 740, 745, 746, 922.
- Agreements and negotiations between Trade Unions and Employers' Association, *see title* Employers and Employers' Associations, *sub-heading* Agreements.
- Aims and objects of, 157, 158, 160, 1638, 1952, 4610 (pages 259, 260, 261).
- Amalgamated Society of Engineers, *see that title*.
- Amalgamated Society of Railway Servants, *see that title*.
- Amalgamation, increased power owing to, 2027 (page 139).
- Associated Society of Locomotive Engineers and Firemen, *see that title*.
- Attendance at meetings, neglect of, by members, asserted, 3719.
- Attitude towards Non-Unionists, *see title* Non-Unionists.
- Boilermakers' Society:
 - Black lists issued by, 3911, 3956, 4002.
 - Breach of agreement, avoidance of, and payment in case of, 4009, 4635.
 - Demands on North-East Coast Ship Repairers' Association, 4653 (page 264).

Trade Unions—cont.

- Boycotting by, 3719, 3720, 3746, 3752, 5143.
 - (*see also title* Non-Unionists, *sub-heading* Attitude of Trade Unions towards).
- Breach of contract arising through action of, *see sub-heading* Interference with Contractual Relations.
- Conciliation, attitude towards, 1066.
 - (*See also title* Conciliation Boards).
- Defaulting Trade Unionists, strikes *re*, *see title* Strikes.
- sub-heading* Defaulting Trade Unionists.
- Definition of, in Act of 1876, includes Employers' Associations, 242, 1197, 1198.
- Employers' attitude towards, 960, 994, 1085, 1375, 1409, 2131, 2133, 2373, 2534, 2655, 2678, 3609, 3911, 4333 (page 247), 4399, 4569, 4653 (page 264), 4704, 4707, 4752, 4907, 4908.
- Railway companies not recognising Trade Unions, 5183 (page 293), 5193, 5324, 5371.
 - Exceptions to this rule, 5330.
 - (*See also title* Taff Vale Railway Company, *sub-heading* Committee, Men's).
- Expulsion of members, existing rules as to, and suggestions as to legislation, 1316, 1389, 3021, 3022, 3024, 3045, 3545.
 - Instances of expulsion, 983, 1354, 1364, 3719 (page 222), 3753.
- Fines inflicted by:
 - Members, fines inflicted on, 995, 3541, 3544, 3719 (page 222).
 - Non-Unionists, and men working with Non-Unionists, 4778, 4782, 4792.
 - Strikes to enforce payment of, 1408, 1412, 1474, 5072, 5079.
 - Working employer fined for himself working overtime, 4778.
- Funds:
 - Accounts, *see that sub-heading*.
 - Application of:
 - Bringing actions against employers, 2027 (page 138).
 - Limited by rules, 244.
 - Parliamentary purposes, use for, objections to, 3495, 3552, 3594, 3753.
 - To other than trade and benevolent purposes, should be illegal, 3495, 3552, 3594.
 - Benefit funds induce men to join the Unions, 1952.
 - Liability of, *see title* Liability of Trade Unions.
 - Money due on death of member, how payable, 250.
 - Separation of, views of witnesses as to, 333, 339, 349, 659, 747, 1316, 1948 (page 134), 2011, 2027 (page 138), 3641, 3719 (page 223), 4042, 4051, 4091, 4102, 4106, 4333 (page 248), 4442, 4529, 4590, 4817, 4927, 5019, 5029, 5047, 5183 (page 294), 5275.
 - Report of Royal Commission on Trade Unions 1867, on, 979, 1174.
- Incorporation of, *see sub-heading* Status.
- Interference with Contractual relations, 194, 195, 224, 779, 2678, 2679, 4137, 4175.
 - Cases as to, 194, 779.
 - Carr v. National Amalgamated Society of House and Ship Painters and Decorators* (1903), *see that title*.
 - General result of cases, 197.
 - Glamorganshire Coal Company v. South Wales Miners' Federation, 180, 781, 1742.
 - Lumley v. Gye, 195, 774, 775, 776, 779, 781, 783, 785, 786, 796.
 - McElrea v. United Society of Drillers (1904), 200.
 - McGuire v. Andrews, Reynolds, Boatman and the Amalgamated Society of House Decorators and Painters (Plaistow Branch) (1904), 198.
 - Quinn v. Leatham (1901), *see that title*.
 - Read v. Friendly Society of Stonemasons (1902), 196, 197.
 - Rogers v. Rajendro Dutt, 194, 791, 792.
 - Payments to men not to work for certain employers, 3268.
 - Case as to—*Charnock v. Court*, 116.
- Interference with workmen without causing breach of contract, 225, 930.
- Internal management of, views as to, 3541.
- Ironfounders' Society, fines levied by, 995.

Trade Unions—cont.**Law as to:**

- Adequate protection of employers and employed under present law, asserted, 2982, 4042.
- Amendment of, declared unnecessary, 2703, 2769, 2882, 2928.
- Chalmers-Hunt, Mr., views of, as to, 175.
- Clearness of present law asserted, 3900.
- Difficulty and uncertainty alleged, 2833.
- (*see also title* Conspiracy, *sub-heading* Difficulty and uncertainty of the law.)
- Position of employers and employed under, contrasted, *see title* Employers and Employers' Associations, *sub-heading*, Position of, as compared with Trade Unions.
- Proposed Legislation *re* Trade Unions, *see that title*.
- Recent decisions as to, should be maintained, 2104, 2693, 2703, 2707, 3606, 4610 (*pages* 261, 262), 5019 (*page* 283).
- (*see also titles* Taff Vale Case, *sub-heading* Decision, and *Quinn v. Leatham*, *sub-heading* Effect of decision.)
- Simplification and codification, suggestion as to, 2029 (*page* 142), 2097.
- Strengthening, advocated, 2707.
- Trade Union Congress, demands as to change of law 87.
- (*see also titles*: Conspiracy; Conspiracy and Protection of Property Act 1875; and Trade Union Act 1871, and Trade Union Act Amendment Act 1876).
- Liability of, *see title* Liability of Trade Unions.
- Lightermen's Union, powerful position of, 2651.
- Membership—Number of members:
 - Amalgamated Society of Railway Servants, *see that title*.
 - Board of Trade Statistics, 8, 11, 12.
 - Lapsed members, counted in total, 3719.
 - Proportion of workmen belonging to Trade Unions, 3450.
 - Proportion of Railway Employees in Ireland who belong to Trades' Unions, 5367.
- National Amalgamated Sailors and Firemen's Union, policy of, 5376 (*page* 301).
- National Association of Operative Plasterers:
 - Membership, etc., 3590.
 - Negotiations with Employers' Association, 4215.
 - Non-Unionists, refusal to work with, alleged, 4187.
 - Sanction of executive council necessary before a strike can take place, 4102.
- New Unions created after the London Dock Strike 1899, 4610 (*page* 261).
- Non-Unionists, attitude of Unionists towards, *see title* Non-Unionists.
- Officials appointed only from members, 1289.
- Operative Stone Masons' Society:
 - Fines levied by, 995,
 - Prohibits even non-members from working for employers struck against, 4792.
- Payments demanded by, before allowing work to proceed, instance of, 3719, 3724.
- Payments to men not to work for a certain employer, 3174, 3268.
- Practices against which employers need protection, list of, 5165.
- Proposed legislation as to, *see title* Proposed legislation *re* Trade Unions.
- Registration, *see subheading* Status.
- Reports, monthly, objection to publication of, and suggestion that they should be placed under the Newspaper and Label Registration Act, 3021 (*page* 193).
- Restriction of output by, *see title* Restriction of Output.
- Royal Commission on Trade Unions 1867-9, *see that title*.
- Rules of:
 - Extracts from, *see Appendices*, (*pages* 20, 32, 33, 34, 89).
 - How far affecting liability, 695, 712, 714, 716, 729.
 - Possibility of framing so as to exclude liability, 331, 334.

Trade Unions—cont.**Rules of—cont.**

- Working rules, *see title* Employers' and Employers' Associations, *subheading* Agreements and Negotiations.
- Scope of authority in relation to, discussion as to, 689, 701, 714, 716, 771, 2836.
- Scottish Operative Tailors' and Tailoresses' Association:
 - Boycotting by, 5145.
 - Placarding by Sandwichmen, instance of, 5089 (*page* 286, *col.* 2), 5134.
 - Rules, 5147.
- Shipwrights' Society of Newport, expulsion of members, 983.
- South Wales Miners' Federation, *see that title*.
- Statistics of Board of Trade, as to, 8, 11, 12.
- Status of:
 - Compared with that of:
 - Clubs, 273, 664, 669, 670.
 - Corporations, 664, 683, 788.
 - Joint Stock Companies, 676.
 - Limited liability Companies, 674, 675, 679.
 - Partnership, 681, 682, 683.
 - Societies, 289.
 - Incorporation:
 - Effect of, 265, 338, 352, 369, 381, 1316, 1320, 2166, 2346, 2574, 2841, 4527, 4530, 4541.
 - Royal Commission on Labour 1891-4, as to 81, 82, 83, 284.
 - Royal Commission on Trade Unions 1867-9, as to, 267, 1171.
 - Taff Vale Case, decision in relation to, 85.
 - Registration:
 - Effect of, on liability to be sued, 28, 38, 39, 40, 41, 52, 53, 390.
 - Royal Commission on Trade Unions 1867-9, as to, 1171.
 - Trade Union Act 1871, applicable to registered Trade Unions, 41, 311.
 - Views of witness as to advantages of, 1316, 1320.
 - Stonemasons' Society, fines levied by, 995.
 - Strikes and stoppages of work, *see that title*.
 - Tin-platers, Monmouthshire, refusal to recognise award *re* Canadas, 1047.
 - Ultra Vires*, doctrine of, in relation to, 693, 699.
 - United Patternmakers' Association:
 - Expulsion of member, 3753.
 - Wages demands:
 - Agreement of large bodies of men as to, is a stronger weapon than strikes, 2721, 2856, 2859.
 - Procedure as to, 4192.
 - Withdrawal from rules as to, 3549, 3753.
 - Woods, Mr. S., statement as to grievances of, criticised, 3809, 3842.
 - Workmen practically compelled to join, 3719.
- Trade Unions and Trade Disputes Bills, *see title* Proposed Legislation *re* Trade Unions.
- Trollope v. London Building Trades Federation (1895, 72 L.G. 342), 2431, 181, 5136.
- United Kingdom Granite and Whinstone Quarry-Masters' Association, *see title* Employers' Associations.
- United Patternmakers' Association, expulsion of member for acting contrary to interests of, 3753.
- Wages Demands:
 - Agreement as to is a stronger weapon than strikes, 2721, 2856, 2859.
 - Procedure as to, 4192.
 - Strikes *re. see title* Strikes, *subheading* Wages questions.
- Walsby v. Anley, 223.
- Walter v. Selfe (4 de G. and S. 315), 120.
- Walters v. Green (1899, 2 Ch. 696), 116.
- Watching and Besetting, under Conspiracy and Protection of Property Act 1875, 407, 1242, 4610 (*page* 259).
- Winder v. Kingston-on-Hull Corporation (1888, 20 Q.D.D. 412) 242.
- Wolfe v. Matthews (1882, 21 C. D. 194), 242.

INDEXES TO MINUTES OF EVIDENCE.

II.—THE EVIDENCE OF EACH WITNESS INDEXED SEPARATELY.

NOTE.—Where a series of questions refer to the same subject, the number of the opening question only is given.

ALLEN, JOHN, member of the Executive of the National Federation of Merchant Tailors, and Editor of the "Master Tailor and Cutters' Gazette." (See Questions 2689-2703.)

Conspiracy:

Amendment of Law as to, views as to, 2693.

Document handed in—Extracts from the Constitution and Rules of the National Federation of Merchant Tailors, 2703a.

Peaceful Persuasion leads to intimidation, 2693, 2695.

Picketing:

By numbers, objected to, 2695.

Object of, to overawe and terrorise, 2693.

Proposed Legislation re Trade Unions, views as to 2693.

Qualifications of, 2689.

Strikes:

Intimidation during, instances of, 2694.

Southport Tailors, 2702.

Taff Vale Case (1901. A C. 426):

Beneficial effect of decision in, 2701.

Trade Unions:

Liability of funds should be maintained, 2693, 2701.

Prevention of others from working by, how far justifiable, 2699.

Recent decisions as to law of, should be maintained, 2693, 2703.

ASHWORTH, EDMUND, of Messrs. Adam Ashworth & Sons, Hat Manufacturers, Bury, Lancashire. (See Questions 2675-2688.)

Actions for interfering with business or contracts:

Sir C. Dilke's Bill to restrict, objected to, 2675

Non-Unionists:

Attitude of Trade Unions towards, 2678.

Peaceful Picketing, leads to intimidation, 2678.

Picketing:

Men prevented from working by, 2678.

Proposed legislation to extend, objected to, 2678.

Unnecessary in order to communicate information, 2678, 2680.

Proposed Legislation re Trade Unions, views as to, 2678.

Qualifications of, 2675.

Strikes:

No objection to Judges deciding which are actionable, 2686.

Non-Unionists, strikes owing to employment of, 2678.

Trade Unions:

Attitude of employers towards, no distinction between Unionists and Non-Unionists, 2678.

Interference by, with workmen refusing to cease work, 2678.

Liability of funds should be maintained, 2678.

ASKWITH, GEORGE RANKEN, Barrister-at-Law. Counsel to His Majesty's Commissioners of Works and Public Buildings, Arbitrator and Conciliator to the Board of Trade. (See Questions 1 to 950.)

Act done with "intent to harm" by individual:
Not necessarily tortious, 790, 907.

Acts of Parliament referred to by witness:

Act of 1859 as to peaceful persuasion, 96, 396.

Conspiracy and Protection of Property Act 1875, *see that title*.

Criminal Law Amendment Act 1871, 104, 143, 397.
Royal Commission of 1874-5 on, 142, 143, 237, 642, 651.

Molestation and Obstruction by Workmen Act 1825, 91, 95, 102, 393, 636.

Provident Nominations and Small Intestacies Act, 1883, 251.

Trade Union Act 1871, *see that title*.

Trade Union Amendment Act 1876, 250, 251.

Allen v. Flood:

Cases as to conspiracy and trade interference alluded to in, 548.

Cave, L. J., judgment in, 148.

Civil liability, motive in relation to, effect of decision on, 907.

Distinction between this case and case of conspiracy, made in all judgments, 900.

Grantham, L. J., criticism of the House of Lords' judgment by, 198.

Halsbury, Lord, dicta of, as to effects of, 130, 136, 526.

Herschell, Lord, judgment and dicta in, 137, 151, 162, 523.

Inducing to strike, decision as to, 580.

James, Lord, of Hereford, on doctrine of "interference" in strikes and lock-outs, 226.

Kearney v. Lloyd in relation to, 140, 553, 646.

Lindley, Lord, criticism of, in Quinn v. Leatham, 527, 529, 800, 907.

Lyons v. Wilkins, in relation to, 110, 111, 118, 226, 232.

Macnaghten, Lord, judgment and dicta in, 153, 581, 777, 793.

Malicious intent, decision as to, in, 141, 150, 151, 153, 517, 523, 529, 581, 621, 792, 800, 809, 902.

"Mogul" case in relation to, 137, 521, 797, 803, 805, 909.

Picketing, although peaceful, is a criminal offence, if done with a view to coercion, decision as to, 111.

Shand, L. J., judgment in, 148.

Theory of facts in, importance of, and variations in summing up by the different judges, 137.

Trade Union delegate, notice by, of intention to strike, whether tortious after decision in, 928.

Tort of Trade interference, dictum of Sir W. Erle as to, objected to by majority of judges in, 504.

Watson, Lord, judgment and dicta in, 226, 523, 793.

Wright, L. J., judgment in, 792, 797.

Black Lists:

Cases relating to:

Bulcock v. St. Anne's Master Builders (1902), 146, 183, 563.

Denaby Collieries v. Yorkshire Miners' Association (1904), as to, 27, 191, 624.

ASKWITH, George Ranken—cont.**Black Lists—cont.****Cases relating to—cont.**

- Jenkinson v. Nield (8 "Times" Law Reports, 540), 181.
 Kilmaticue Conspiracy Case, 185.
 Tallow Conspiracy Case, 184.
 Thomas v. Amalgamated Society of Carpenters ("Times," April 28th, 1902), 184.
 Trollope v. London Building Trades Federation (72 L.T. N.S., 342), 181.

Legality of issue of, views of witness as to, 931

Board of Trade:

- Attitude of, 5.
 Position of Mr. G. R. Askwith as to, 4.
 Statistics of, *re*:
 Employers' Association, 130a.
 Trade Unions, Strikes and Lockouts, 8, 11, 12.

Cases:

- Allen v. Flood, *see that title*.
 American cases, *re* conspiracy, 126, 127.
 Ashby v. White, 829.
 Bamford v. Turnley (3 B. & S. 62), 120.
 Banister Brothers & Moore v. Almond ("Labour Gazette," October, 1901, 299), 121.
 Barber v. Lesiter (7 C.B.N.S. 175), 140.
 Barber v. Penley (1893, 2 Ch., 447) 203.
 Barwick v. English Joint Stock Bank (L.R., 2 Ex. 259) 337, 711, 770, 773.
 Bayley v. The Manchester, Sheffield and Lincolnshire Railway Company (L.R. 7 C.P., 415, 1872) 335.
 Boots v. Grundy (1900, 82 L.T., 769), 182.
 Bowen v. Hall (6 Q.B.D., 333), 150, 151, 516.
 Bradford Corporation v. Pickles (1895, A.C., 587), 150, 798, 801, 802, 803.
 Broder v. Saillard (2 Ch., D., 692, 701), 120.
 Bromage v. Prosser, 151.
 Bulcock v. St. Anne's Master Builders (1902, 19 T.L.R., 27), 146, 183, 563.
 Capital and Counties Bank v. Henty, 151 (*page* 17).
 Carr v. National Amalgamated Society of House and Ship Painters and Decorators ("Labour Gazette," August, 1903, 215), 148, 197.
 Chamberlain's Wharf Case (1900, 2 Ch., 605), 242, 243.
 Charnock v. Court (1899, 2 Ch., 35), 116, 459.
 Chasemore v. Richards, 803.
 Clifford v. Brandon, 828, 829.
 Commissioners of Sewers v. Gellatly (1876, 3 Ch. 615), 289.
 Crocker v. Knight (1892, 61 L.J. Q.B., 466), 250, 251.
 Crump v. Lambert (L.R., 3 Eq. 409) 120.
 Curran v. Treleaven (1891, 2 Q.B., 547), 222, 224.
 Denaby Collieries v. Yorkshire Miners' Association ("Labour Gazette," March, 1904), 27, 191, 624.
 Duke of Bedford v. Ellis (1901, A.C., 1), 27.
 Duke v. Littleboy (1880, 49 L.J. Ch., 802), 242.
 Epping Forest Case (1876, 3 C.D. 615) 360.
 Ferguson v. Kinnoul (1842), 195.
 Giblan v. National Amalgamated Labourers' Union (1902, 18 T.L.R., 500), 27, 155, 177, 179, 183, 197, 531, 620, 770, 812, 848.
 Gibson v. Lawson (1891, 2 Q.B., 545), 222, 224, 458.
 Glamorganshire Coal Company v. South Wales Miners' Federation (1902, 18 T.L.R., 810), 27, 39, 180, 781.
 Gregory v. Duke of Brunswick (1844 6 Man. and Gr. 205, 953), 139, 140, 151, 177, 548, 554, 826, 830.
 Hilton v. Eckersley, 819.
 Howden v. Yorkshire Miners' Association (1903, 72 L.J., K.B., 176), 244, 737.
 Huttley v. Simmons (1898, 1 Q.B., 181), 139, 181, 622.
 Jenkinson v. Nield (8, T.L.R., 540), 181.

ASKWITH, George Ranken—cont.**Cases—cont.**

- Kearney v. Lloyd (26 L.R., Ir., 26, 285), 140, 553, 646.
 Keeble v. Hickereringill, 151.
 Kilmaticue Conspiracy Case, 185.
 Limpus v. The London General Omnibus Company (1 H. & C., 526), 337.
 Linaker v. Picher (17 T.L.R., 256), 24.
 Lumley v. Gye (2 E. & B., 216) 195, 774, 775, 776, 779, 783, 785, 787, 796.
 Lyons v. Wilkins, *see that title*.
 McElrea v. United Society of Drillers ("Times," April 13-15, 1904), 200.
 McGuire v. Andrews, Reynolds, Boatman, and the Amalgamated Society of House Decorators and Painters (Plaistow Branch), ("Times" March 8th, 1904), 198.
 Mersey Docks Trustees v. Gibbs (1866, L.R., 1, H.L., 93), 668, 691.
 Meux v. Maltby (1818) 289, 358.
 Mogul S.S. Company Case, *see that title*.
 Mulcahy v. Regina (1868, L.R., 3 H.L., 317), 140, 489.
 O'Connell v. The Queen (11 Cl. & F., 155), 140.
 Old v. Robson (1890, 59 L.J. M.C., 41), 242.
 Pink v. Federation of Trade Unions (1892, 67 L.T., 258), 19, 22, 23.
 Poulton v. London and South Western Railway Company (2 L.R., Q. B., 540), 693.
 Quinn v. Leatham, *see that title*.
 Read v. Friendly Society of Operative Stonemasons (1902, 2 K.B., 88, 732), (1902, T. L. R. 21), 196, 197.
 R. v. Bauld (1876, 13 Cox, C.C., 282), 104, 106, 110.
 R. v. Bunn, 603, 606.
 R. v. Druitt, 223, 596, 845.
 R. v. Eccles, 140.
 R. v. Hibbert (1875, 13 Cox, C.C. 82), 104.
 R. v. Journeymen Tailors of Cambridge, 140.
 R. v. Mawbey, 140, 818, 819.
 R. v. Parnell and others (14 Cox, C.C. 508), 140.
 R. v. Rowlands, 148, 223, 603, 606.
 R. v. Selsby (1847, 5 Cox, C.C., 495), 95.
 R. v. Shepherd (1869, 11 Cox, C.C., 325), 102, 103.
 R. v. Warburton (L.R.L.C.C. 276), 140.
 Rigby v. Connol (1880, 14, C.D., 482), 243.
 Rogers v. Rajendro Dutt (13 Moo. P.C., 209), 194, 791, 792.
 Scottish Co-operative Society v. Glasgow Fleshers (1898, S. L. R. 645), 146, 562.
 Skinner v. Gunton (1 William Saunders, 23q), 649, 825.
 Stevenson v. Newnham (1853, 13, C.B., 285), 150.
 Swaine v. Wilson (1890, 24 Q.B., 252), 242.
 Taff Vale Case, *see that title*.
 Tallow Conspiracy Case, 184.
 Temperton v. Russell (1893, 1 Q.B., 435, 715), 23, 27, 148, 150, 151, 177, 237, 276, 299, 516, 901, 909.
 Thomas v. Amalgamated Society of Carpenters ("Times," April 28th, 1902), 184.
 Trollope v. London Building Trade Federation (1895, 72 L.T., 342), 24, 31, 181.
 Walsby v. Anley, 223.
 Walter v. Selfe (4 De G. & S., 315), 120.
 Walters v. Green (1899, 2 Ch., 696), 116.
 Winder v. Kingston-on-Hull Corporation (1888, 20 Q.B.D., 412), 242.
 Wolfe v. Matthews (1882, 21 C.D., 194), 249

Class Actions: Procedure as to, 358.

Conciliation:

Advantages of, 362.

Conspiracy:

Acts legal if done by one, where punished as, 126, 140, 180, 181, 220, 222, 635, 651.

Desires of Trade Unionists as to, 138, 237

Boycotting dealt with as, 184, 185, 237, 241.

Cases as to:

Allen v. Flood (1898, A.C. 1), 130, 136, 137, 148, 150, 151, 152, 153, 154, 162, 163.

American cases, 126, 127.

ASKWITH, George Ranken—cont.

Conspiracy—cont.

Cases as to—cont.

- Boots v. Grundy (1900, 82 L.T., 769), 182.
- Bowen v. Hall (6 Q.B.D., 333), 150, 151, 516.
- Bulcock v. St. Anne's Master Builders, (1902), 19 T.L.R. 27), 146.
- Carr v. National Amalgamated Society of House Painters (1903), 148, 197.
- Curran v. Treleven (1891, 2 Q.B., 547), 222, 224, 1192.
- Effect of cases, 130, 136, 137, 139, 788, 789.
- Giblan v. National Amalgamated Labourers' Union (1903), 155, 183, 848.
- Gibson v. Lawson (1891, 2 Q.B. 545), 222.
- Gregory v. Duke of Brunswick (6 Man. & Gr. 205, 953), 139, 140, 826.
- Hutley v. Simmons (1898, 1 Q.B., 181), 139, 181, 622.
- Kearney v. Lloyd (1890, 26 L.R., Ir., 26, 285), 140, 553, 646.
- Kilmattigue conspiracy case, 185.
- Lyons v. Wilkins, *see that title*
- McElrea v. United Society of Drillers ("Times," April 13th, 15th, 1904), 200.
- McGuire v. Andrews, Reynolds, Boatman and The Amalgamated Society of House Decorators and Painters (Plaistow Branch), ("Times," March 8th, 1904), 198.
- Mogul Case, *see Mogul Steamship Company Case*.
- Mulcahy v. Regina (1868, L.R., 3 H.L. 317), 140, 149.
- Quinn v. Leatham (1901, A.C. 495), 140, 151, 152, 196, 639, 939.
- R. v. Warburton (L.R.I.C.C. 276), 140.
- Scottish Co-operative Society v. Glasgow Fishers (1898), 146.
- Skinner v. Gunton (1 William Saunders 230), 649.
- Civil liability in :**
 - American Cases as to, 127, 128.
 - Conspiracy and Protection of Property Act 1875, how far affected by, 47, 49.
 - Effect of Gregory v. Duke of Brunswick on, 140, 826.
 - Liability for civil conspiracy first considered in Quinn v. Leatham, 237.
 - "Motive" not to be considered in, 907.
 - Untouched by Quinn v. Leatham, 820, 823.
- Combination :**
 - How far indictable as, 813.
 - Oppressive Combination, definition of, 631, 840, 911.
 - To commit a tort is, 650.
 - Suggested no reason why this principle should be extended, 651.
 - To molest, ruling as to, 598, 602.
- Competition, when exemption from, 146, 148, 151, 152, 156.**
 - Allen v. Flood as to, 148, 151.
 - Bulcock v. St. Anne's Master Builders (1902), 146.
 - Carr v. National Amalgamated Society of House Painters (1903) as to, 148, 197.
 - Giblan v. National Amalgamated Labourers' Union (1903) as to, 155, 183.
 - Mogul case, Bowen, L. J., on, 148.
 - Temperton v. Russell (1893) as to, 148, 150.
- Conspiracy to injure, *see that title*.**
- Criminal Conspiracy, effect of Conspiracy and Protection of Property Act of 1875, on, 146, 237, 241.**
- Definition of, 140, 488, 496, 499.**
- Desires of Trade Unions as to change of law of, 138, 237.**
- Difficulty and uncertainty of the law, and conflict of dicta as to, 130, 136, 139, 180, 604, 781, 836.**
 - Sir F. Pollock on, 139.
- Effect of cases on : Gist of the action in, 646, 825.**
 - Dicta of Lord Halebury on, 130, 136, 137.
 - Taff Vale Case, effect on, 788, 789

ASKWITH, George Ranken—cont.

Conspiracy—cont.

- "Malicious Intent" in, 150, 151.**
- Nuisance.**
 - Mr. Haldane, K.C., suggests treating it as, 203.
 - Criticism of suggestion, 214, 216, 471.
 - Proposed legislation as to, 86, 138, 237.
 - Trade Union Congress, views on, 138.
- Conspiracy and Protection of Property Act, 1875.**
 - "Attending," etc., allowed under the Act, nature of, 410, 425, 441, 446, 451.
 - Civil liability, how far affected by, 47, 49.
 - Criminal liability for conspiracy affected by, 116, 237, 241.
 - Desires of Trade Unionists as to, 138, 237.
 - Dicta of the judges in cases on, 217.
 - Effect of decisions in cases since, 146, 150, 227.
 - Effect of Quinn v. Leatham on, 645.
 - History of, 142, 143.
 - "Intimidation" under, 222.
 - Definition of, by Mr. Chalmers-Hunt, 223.
 - Labour Commission of 1891-4 as to, 223, 224, 458.
 - Is of general application, 437.
 - Objects of the Act, 237, 642.
 - "Peaceful persuasion" not allowed under, 104, 109, 411, 415.
 - Words as to, why left out in the Act, 104.
 - "Picketing," reason for provision of Statutory remedy as to 482.
 - Section 7, as to Watching and Besetting, 407.
- "Conspiracy to Injure" :**
 - Cases as to, 225, 237, 251, 901.
 - Gregory v. Duke of Brunswick, 139, 140, 151, 177, 179, 548, 826.
 - Quinn v. Leatham, doctrine as to in, 151, 152, 155, 196, 533, 542, 568.
 - Definition of, 536.
 - Existence and effects of, 893.
 - Historical aspect of, 548.
 - Macnaghten, Lord, on, 140, 533, 542, 827.
 - What is justification for, 612, 619, 825.
- Documents handed in.**
 - Employers' Associations, statement showing General Summary for 1902, 130a.
 - Extract from *Industrial Democracy*, by Mr. and Mrs. Sidney Webb, pp. 34-45 : "A Bill entitled an Act to amend the Law relating to Trade Disputes, 88.
 - Proposed legislation *re* Trade Unions :
 - Copies of Bills, 86.
 - Letter addressed to Members of Parliament by the Trades Union Congress Parliamentary Committee, dated 5th May 1903, *re* Trades Disputes Bill, copy of, 88.
 - Strikes and Lock-outs, statement summarising statistics of in United Kingdom in each of the ten years, 1893-1902, 12.
- Trade Disputes :**
 - Chart showing number of work-people directly and indirectly affected by Trade Disputes, and aggregate duration in working days in each year, 1894-1903, 12.
 - Chart showing number of work-people directly affected by Trade Disputes, classified by trades, causes, and results, mean of ten years, 1894-1903, 12.
- Trade Unions :**
 - Attitude of, with regard to the existing state of the law, *precis* of "The Times" Report, September 5th, 1902, p. 10, respecting, 88.
 - Expenditure of, 1893-1902, chart showing analysis of expenditure on disputes, working expenses, and each class of friendly benefit, by 100 principal Trade Unions for each year, and mean for period, 12.
 - Membership of, in 1902, statement summarising, 12.
 - Membership of all Trade Unions, Membership in each year, 1893-1902, and mean or period, classified by trades, 12.

ASKWITH, George Ranken—cont.**Employers' Associations :**

- Agreements between Employers and Trade Unions :
 - Advantage of, 362.
 - Breach of should be illegal, views as to, 366.
 - Funds of, distinction between, and those of Trade Unions, 130a.
 - Returns of, when obligatory, 131.
 - Statistics available as to, 130a.

Experience of Witness, 2.**Giblan v. National Amalgamated Labourers' Union (1902, 18 T.L.R., 500) :**

- As to "conspiracy" in, 155, 183.
- Comments on questions put to the jury in, 848.

"Intention to Damage:"

- Effect of on otherwise lawful Act, 521.
- Doctrine as to malicious intent in *Allen v. Flood*, 141, 150, 151, 153, 517, 523, 529, 581, 621, 792, 800, 809, 902.

Interference with Contractual Relations, see title Trade Unions, subheading Interference, &c.**Liability of Trade Unions**

- Bruce, Mr., opinion on, in 1875, 42.
- Cases as to :
 - Bayley v. Manchester, Sheffield and Lincolnshire Railway Company*, 335.
 - Briscoe v. Meakin*, 4979.
 - Carr v. National Amalgamated Society of House and Ship Painters and Decorators*, 148, 197.
 - Duke of Bedford v. Ellis*, 27.
 - Linaker v. Pilcher*, 24.
 - Lyons v. Wilkins*, 24.
 - Temperton v. Russell*, 23, 27, 276, 299.
 - Taff Vale case*, see *that title*.
 - Temperton v. Russell*, 25, 27, 276, 287, 299.
 - Trollope v. London Building Trade Federation*, 24, 31.
- Employer and workmen, position as to, compared, 58.
- How suable apart from special Trade Union law 299, 313.
- Inability to sue its own agents, 61, 73.
- Members of, not personally liable, 385, 391, 673.
- Public opinion as to, 23, 24, 27, 42.
- Registration, effect of on, 28, 38, 39, 40, 41, 52, 53, 390.
- Royal Commission on Labour 1891-4, as to, 23, 24, 48, 284.
- Royal Commission on Trade Unions 1867-9, as to, 42.
- Rules of Trade Unions in relation to :
 - How far affecting liability, 695, 712, 714, 716, 729.
 - Possibility of framing so as to exclude liability, 331, 334.
- Trade Union Congress in 1875, on, 42.
- Trust deeds, how far a protection against decision in *Taff Vale case*, 659.
- Views of witness as to, 47, 49, 52.

Lyons v. Wilkins : ((1) 1896, 1 Ch. 811, 832; (2) 1899 Ch. 255.)

- Combination to prevent one man from working for another declared illegal by Kay, L. J., 156.
- Followed by recent cases, 116.
- Head Note in, 110.
- Legality of strikes :
 - Dictum by Kay, L. J., 222, 584.
 - Dictum by Lindley, M.R., 158, 595.
- Liability of Trade Unions not argued in, 24.
- Not affected by *Allen v. Flood*, 110, 111, 118, 226, 232.
- Peaceful persuasion, decision as to, 110, 111, 113, 118, 120, 412, 413, 459.
- First declared illegal in, 114.
- Remedy in, followed in other cases, 121.
- Views of witness as to, 111.
- Sympathetic strikes, illegality of, judgment of Smith, L. J., as to, 225, 585, 933.

ASKWITH, George Ranken—cont.**"Malice"**

- Effect of on otherwise lawful act, 515.
- Doctrine as to malicious intent in *Allen v. Flood*, 517, 523, 529, 581, 621, 792, 800, 809, 902, 2273, 2279.

Mogul Steamship Company Case (1892, A.C., 25) :

- Allen v. Flood*, in relation to, 137, 521, 797, 803, 805, 909.
- Combination in furtherance of labour decision as to in, 153, 561.
- Chalmers-Hunt, Mr. on, 175.
- "Dicta" in criticised, 790.
- Difficulties in, law as to, views of witness as to, 141.
- Facts in, 146.
- Judgment of Bowen, L. J., in, 129, 130, 137, 140, 141, 146, 148, 150, 151, 179, 521, 614, 790, 803, 825.
- Nuisance in, 209.
- Theory of facts in, commented on, 137.

Non-Unionists : Strikes against, question as to legality of, 938.**Nuisance :**

- Peaceful persuasion, when indictable as, at Common Law, 118, 119, 464.
- Remedies for, 478.
- Suggestion that conspiracy might be treated as, 203, 214, 216.
- Suggestion that picketing might be treated as, 471.

"Oppressive Combination" :

- Definition of, 631, 840, 911.

Peaceful Persuasion :

- Acts of Parliament in relation to :
 - Act of 1859, 96, 396.
 - Conspiracy and Protection of Property Act 1875, Peaceful persuasion not allowed under, 104, 109, 411, 415.
 - Molestation and Obstruction by Workmen Act 1825, 95, 102, 393.
- Advantage of Statutory over Common Law, remedy as to, 121.
- Cairns, Lord Chancellor, as to in 1875, 104.
- Cases as to :
 - Banister Brothers and Moore v. Almond and others* (1901), 121.
 - Charnock v. Court* (1899), 116, 459.
 - Lyons v. Wilkins* (1896) as to, 110, 111, 113, 118, 120, 412, 413, 459.
 - First held illegal in, 114.
 - Judgment in, Witness's view of, 111.
 - Remedy in, followed in other cases, 121.
 - Unaffected by *Allen v. Flood* (1898), 111.
 - R. v. Bauld*, (1876), 104, 106 110.
 - R. v. Selsby* (1847), 95.
 - R. v. Shepherd* (1869), 102, 103.
 - R. v. Hibbert* (1875).
 - Quoted in Commons Debate by Mr. Cross in 1875, 104.
 - Russell Gurney's charge in, 104.
 - Walters v. Green* (1899), 116.
- Criminal Law Amendment Act, 1871, as to, 104.
- Grievance as to, since *Lyons v. Wilkins*, 413, 468.
- History of, 91.
- Intention of the Conspiracy and Protection of Property Act of 1875 as to, 104, 109, 411, 415.
- Opinions in 1895 as to legality of, 110.
- Proposed legislation as to, 90.
- Royal Commission on Labour 1891-4, witnesses before as to, 110.
- What it is in practice, 415, 435.
- When indictable as nuisance at Common Law, 118, 119, 464.
- Words as to why left out in Act of 1875, 104.

Proposed Legislation re Trade Unions :

- Acts legal when done by one person, not to be illegal if done by many in combination, proposals as to, 138, 237.
- Copies of Bills handed in, 86.
- Peaceful Persuasion, proposals as to, 90.
- Webb, Mr. and Mrs. Sidney, draft bill as to, 87.

Qualifications of Witness, 1.

ASKWITH, George Ranken—cont.

Quinn v. Leatham (1901), A.C. 495:

America, use made of the doctrines of in, 126.
Brampton, Lord, judgment in, 140, 181, 650.
Civil liability for conspiracy in, 237, 820, 823.
Not affected by Trade Union Act of 1871, decision as to, 639.
Not affected by Conspiracy and Protection of Property Act of 1875, decision as to, 820, 836, 909.
"Conspiracy to injure," doctrine of, 151, 152, 155, 196, 237, 533, 542, 568, 901.
Directions given to the Jury by Fitz Gibbon, L.J., 180.
Facts in, 151 (*page* 18), 152.
Haldane, Mr., article comparing Quinn v. Leatham with Barber v. Penley, 203.
Halsbury, Lord, dicta in, 130, 136, 155, 526.
Head-note in, 945.
Lindley, Lord, judgment and dicta in, 140, 181, 217, 231, 232, 237, 527, 529, 608, 800, 926, 931.
Macnaghten, Lord, dicta in, 140, 196, 533, 542.
Motive or malice, doctrine as to, 518, 811.
Reasons for the action, 911, 939.

Royal Commission of 1874-5 on Master and Servants Act 1867 and on Criminal Law Amendment Act 1871:

Principle on which Conspiracy and Protection of Property Act was framed, 237, 642.
Tort committed by combination of persons, a criminal offence, decision as to, 142, 143, 651.

Royal Commission on Labour 1891-4:

Arbitration and Conciliation, observations as to 362, 365.
Agreements should be binding, 372.
Conspiracy and Protection of Property Act, 1875, recommendations as to, 223.
Incorporation of Trade Unions, proposals as to, 81, 82, 83, 284.
Intimidation, report on, 223, 224, 458.
Liability of Trade Unions to be sued, report on, 23, 24, 42, 48, 284.
Peaceful Persuasion, evidence as to, 110.

Royal Commission on Trade Unions 1867-9:

Arbitration and Conciliation, observations as to, 362.
Incorporation of Trade Unions, suggestion as to a, 267.
Legality of Trade Unions and of Strikes, Report on, 635.
Tort committed in pursuance of combination, Report on, 650.

Societies:

How far suable by representatives, 289

Strikes:

Legality of:
Dictum of Kay, L. J., as to, 222, 584.
Dictum of Lindley, M. R., 158, 595.
Royal Commission on Trade Unions 1867-9, Report of on, 635
Limitation on the conduct of, 595.
Non-Unionists, strikes against, views as to legality of, 938.
Right of workmen to strike, 571, 575.
Statistics *re* Strikes and Lock-outs, summary of, 11, 12, 700.
Subscriptions to strikes by outsiders, question as to legality of, 937.
Sympathetic strikes, views as to, 222, 226, 235, 233, 581, 585, 933.

Taff Vale Case (1901, AC, 426.):

Corollary of in conspiracy, 788, 789.
Decision in, 13, 19.
Grounds for, 313, 316.
Points decided, 13, 653, 654, 655, 656.
Effect of "registration" in, 52, 53.
Followed in recent cases, 27.
History of, 13, 19.
How far liability of Trade Union funds was argued in, 317.

ASKWITH, George Ranken—cont.

Taff Vale Case, etc.—cont.

Incorporation, effect of, on decision in, 85.
Injunction in, 13, 14.
Judgment of Lord Halsbury, in, 19.
"Picketing" in, nature of, 124.
Pink v. Federation of Trade Unions (1892), relation of to, 19, 22, 23.
Proposals for amendment, of law laid down in, 86.
Temperton v. Russell, relation of to, 23, 27.
Trade Unions opinion of as to, 19, 89, 264.
"Trust deeds," how far a protection against decision in, 659.

Tort of Trade Interference:

Sir W. Erle on, 501.

Trade Union Act, 1871:

Applicable to all Unions, registered or unregistered, 311.

Cases as to:

Chamberlain's Wharf Case (1900), 242, 243.
Duke v. Littleboy (1880), 241.
Howden v. Yorkshire Miners' Association (1903), 244.
Old v. Robson (1890), 241.
Swaine v. Wilson (1890), 241.
Wolfe v. Matthews (1882), 242.
Winder v. Hull Corporation (1888), 242.
Effect of Taff Vale decision on, 57.
Inability to sue Trade Union Agents under, 61, 72, 74.
Objects of, 51, 392, 397, 636, 644.
Section 4, partial repeal of suggested, probable effect of, 366.

Trade Union Act Amendment Act, 1876:

Case as to—Crocker v. Knight (1892), 250, 251.

Trade Unions:

Agency of:

Governed by general law, 336, 337, 758.
Inability to sue Trade Union Agents, under Act of 1871, 61, 73, 74.
Scope of authority, discussion as to, 689, 701, 714, 716, 771.
Wrongful acts by Agents, difficulty in defining, 729, 739, 740, 745, 746, 922.
Breach of Contracts arising through, *see subheading*, Interference with Contractual relations.
Chalmers-Hunt's views as to law of 175.
Definition of, includes Employers' Unions, 242.
Difficulty and uncertainty of the Law relating to, *see title* Conspiracy, *subheading* Difficulty, etc.

Funds:

Application of, limited by rules of, 244.
Liability of, *see* Liability of Trade Unions.
Money due on death of Member, how payable, 250.
Segregation of, 333, 339, 349, 659, 747.
Incorporation of, *see subheading* Status.
Interference with contractual relations by, 194, 195, 224, 779.
Cases as to, 194, 779.

Carr v. National Amalgamated Society of House and Ship Painters and Decorators (1903), 197.
General result of cases, 197.
Glamorganshire Coal Company v. South Wales Miners' Federation, 180, 781.
Lumley v. Gye, 195, 779, 781, 783, 785, 786.
McElrea v. United Society of Drillers (1904), 200.
McGuire v. Andrews, Reynolds, Boatman, and the Amalgamated Society of House Decorators and Painters (Plaistow Branch) (1904), 198.
Quinn v. Leatham (1901), 196.
Dicta of Lord Halsbury in, 130, 136.
Read v. Friendly Society of Stonemasons (1902), 196.
Rogers v. Rajendro Dutt, 194.

ASKWITH, George Rankin—cont.**Trade Unions—cont.**

- Interference with workmen without causing breach of contract, 116, 225, 930.
- Liability of, *see that title*.
- Objects of, 157, 158, 160.
- Proposed Legislation, *re* Trade Unions, *see that title*.
- Registration, *see subheading* Status.
- Rules of:
 - How far affecting liability of, 695, 712, 714, 716, 729.
 - Possibility of framing so as to exclude liability, 331, 334.
- Scope of authority in relation to, discussion as to, 689, 701, 714, 716, 735, 771.
- Statistics of Board of Trade as to, 8, 11, 12.
- Status of:
 - Compared with that of—
 - Clubs, 273, 664, 669, 670.
 - Corporations, 664, 683, 788.
 - Joint Stock Companies, 676.
 - Limited Liability Companies, 674, 675, 679.
 - Partnership, 681, 682, 683.
 - Societies, 269.
 - Incorporation:
 - Effect of, 265, 338, 352, 369, 381.
 - Royal Commission on Labour 1891-4 as to, 81, 82, 83, 284.
 - Royal Commission on Trade Unions 1867-9 as to, 267.
 - Taff Vale decision in relation to, 85.
 - Registration:
 - Effect on liability to be sued, 28, 38, 39, 40, 41, 52, 53, 390.
 - Trade Union Act 1871, applicable to, 41, 311.
 - Trade Union Congress, demands as to change of law *re*, 87.
 - "Ultra Vires," doctrine of, in relation to, 693, 699.

BADGER, JAMES A., an aggrieved and discharged Trade Unionist. (See Questions 3717-3752.)**Black Lists:**

- Use of, by Trade Union, preventing employment, 3719, (page 222), 3745.

Conspiracy and Protection of Property Act, 1875:

- Section 7 of, qualifying clause of, should be repealed, 3719 (page 222).

Law should be equal for all, employer and employed, 3719 (page 222).**Minister of Commerce**, appointment advocated, 3719 (page 223).**Non-Unionists:**

- Protection of, from Trade Unions, insufficient, 3719, (page 222).

Picketing:

- Peaceful persuasion in, impossible, 3719, 3749.
- Present law as to, gives ample freedom for every one, 3719.

Proposed Legislation re Trade Unions:

- Objections to, 3719 (page 222).

Qualifications of, 3717.**Strikes and Trade Disputes:**

- Avoidance of, suggestions as to, 3719 (page 223).
- Promoted by Trade Unions, 3719 (page 224).

Taff Vale Case, decision should be maintained, 3750.**Trade Unions:**

- Accounts of, falsified, 3719 (page 222).
- Advantage of existence of, for purposes of agreements with employers, 364.
- Attendance at meetings, neglect of, by members, asserted, 3719.
- Boycotting by, 3719, 3746, 3752.

BADGER, James A.—cont.**Trade Unions—cont.**

- Fines imposed by, 3719.
- Funds:
 - Liability of, should be maintained, 3719, (page 222), 3751, 3752.
 - Separation advocated, 3719, (page 223).
- Membership of: lapsed members counted total, 3719, (page 222).
- Payments demanded by, before work was allowed to proceed, 3719 (page 222), 3724.
- Workmen practically compelled to join, 3719, (page 222).

BAGLEY, WILLIAM, Chairman of the Yorkshire Glass Bottle Manufacturers' Association. (See Questions, 4041-4100.)**Conspiracy and Protection of Property Act, 1875,** Section 7, qualifying clause should be repealed, 4047.**Non-Unionists:**

- Coercion of, should be made penal, 4042, 4071.

Picketing:

- Abolition of, suggested, 4047, 4083.
- Peaceful persuasion in, objections to, 4046, 4088.

Proposed Legislation re Trade Unions, objections to, 4042**Royal Commission on Labour 1891-4**, Evidence before, 1977.**Qualifications of, 4041:****Strikes:**

- Organisation on both sides best way of preventing, 4077.

Taff Vale Case (1901 AC. 426):

- Decision in, approved, 4051.

Trade Unions:

- Funds:
 - Liability of, should be maintained, 4042.
 - Separation of, suggested, 4042, 4051, 4091.
 - Law as at present sufficiently protect employer and employed, 4042.
 - Workmen practically compelled to join 4071.

BAIRD, ROBERT, Secretary to the Lanarkshire Coalmasters' Association, and also to the Scotch Coal Trade Conciliation Board (See Questions 1569-1730).**Acts of Parliament:**

- Coal Mines Regulation Act, 1897, amendment of *re* checkweighmen advocated, 1613, 1698.
- Conspiracy and Protection of Property Act, *see that title*.

Checkweighmen:

- Appointment of:
 - By independent authority suggested, 1692, 1697.
 - Neutral men should be appointed, 1608, 1612, 1691, 1706.
- Interference in working of pits by, 1603, 1604, 1610, 1698.
- Difficulty in restraining at present, 1607, 1608.
- Restriction of output, 1604.

Commission on Employers' Liability and Workmen's Compensation Acts, report of, 1725.**Conciliation Board, Scottish Coal Trade:**

- Constitution and scope of, 1715.
- Trade unions, how far an essential element in, 1721, 1728, 1729.

Conspiracy:

- Combining to strike should not be illegal, 1673.
- Inducing to strike, how far legal, 1674.
- Law as to, should remain, 1596.
- Sympathetic strikes, conspiracy in, 1682.

BAIRD, Robert—cont.**Conspiracy and Protection of Property Act, 1875 :**

Effect of provision as to "obtaining or communicating information," 1654, 1730.
Section 7, qualifying clause, repeal advocated, 1590, 1659, 1671.

Document handed in—Copy of letter issued by the Mining Association of Great Britain *re* Trade Unions and Trade Disputes Bill, 1904, 1582.

Employers' Association—Scottish Mine-Owners' Defence and Mutual Insurance Association:
Deals with Workmen's Compensation Act, 1724.

Law should be the same for employers and employed, 1596.

Non-Unionists :

Attitude of trade unions towards, 1589, 1592.
Strike against, *see* Strikes.

Peaceful Persuasion :

Impossibility of, inevitably leads to intimidation, 1585, 1650, 1651, 1667.

Picketing :

Abolition of, advocated, 1590, 1659, 1671.
Attitude of trade unions as to, and sums paid for picketing purposes, 1585.
Continuance of strike, effect of on, 1589.
Intimidation by means of, is the chief objection to, 1712.
Numbers employed, effect of, on legality of picketing, 1633, 1654, 1662, 1671.
Violence resorted to during, 1589.

Proposed Legislation *re* Trade Unions :

Coal-owners, probable effect of on, 1585.
Ellis, Mr., memorandum on, agreed with by witness, 1580.
Guthrie's, Mr., evidence as to, agreed with by witness, 1583, 1584.
Liability of trade unions, proposals as to, views as to, 1596, 1617, 1709.
Picketing, proposals as to, views as to, 1584, 1585, 1589.

Qualifications of witness, 1577.

Restriction of Output, checkweighmen causing, 1604.

Scottish Mine-Owners' Defence and Mutual Insurance Association :

Deals with Workmen's Compensation Act 1724.

Strikes :

Act of striking and inducing to strike, distinction between, 1673.
Non-unionists, strikes against:
Allanshaw Colliery, 1589.
Baljaffray Colliery, Glasgow, 1589.
Bardykes Colliery, Blantyre, 1589, 1591, 1652.
Cadzow Colliery, 1592.
Views as to whether this should be punishable, 1679.
Payment of trade union subscription, stoppages to enforce, 1595.
Right of workmen to strike, views as to, 1673.
Scotland, chief causes of strikes in, 1588.
Sympathetic strikes, views as to whether they should be made illegal, 1682.
Without notice, instances of, 1596.

Taff Vale Case, decision in :

Reasons for, and effect of, 1617.
Should be maintained, 1596.

Trade Unions :

Creed of, as to compulsion of others, 1638.
Liability of trade unions should be the same as of corporations, 1620, 1709.
Proposed legislation, *see that title*.

BEALE, JAMES SAMUEL, Solicitor to the Midland Railway Company, and an Official Representative of the Railway Companies' Association. (*See* Questions 4898-4976.)

Actions for interfering with business or contracts :

Sir C. Dilke's proposed restrictions on, objected to, 4928.

Black Lists :

Issue of, questions as to, 4947.
Legislation to prevent, impossible, 4952-4955.

Conspiracy :

Law as to, is general and should remain, 4924.

Conspiracy and Protection of Property Act 1875 :

Amendment suggested in proposed legislation *re* Trade Unions, views as to, 4916.
Section 4, extension of, to railway companies, not advocated, 4934.

"Conspiracy to injure" :

"Motive" in, as constituting, 4956.

Lyons v. Wilkins, decision in, views as to, 4917.

Midland Railway Company :

Attitude towards Trade Unions, 4908, 4909.
Strikes, 4900, 4906, 4929.

Picketing :

"Peaceful persuasion" in, leads to intimidation, 4912.
Present law as to, satisfactory, 4921.

Proposed Legislation *re* Trade Unions, views as to, 4912.

Qualifications of, 4898.

Quinn v. Leatham, decision in, should be maintained, 4931.

Railway Companies :

Aid rendered by, to other railways struck against, 4944.
Protection given gas companies under Conspiracy Act should not be extended to, 4934.
Strikes not so effective in case of, as in other cases 4904, 4938.

Strikes :

Non-Unionists, strike against, should not be declared illegal, 4976.
Railwaymen's strikes, particulars as to, 4900, 4903, 4906, 4920, 4950.
Less effective than in other employments, 4904, 4938.

Taff Vale Case, decision in, should be maintained, 4933.

Trade Unions :

Advantage of, 4909.
Attitude of employers towards, 4907, 4908.
Funds:
Liability should be maintained, 4927, 4933.
Separation of, might be made without legislation, 4927.

BEASLEY, AMMON, General Manager of the Taff Vale Railway Company. (*See* Questions 951-1405).

Acts of Parliament :

Conciliation (Arbitration) Act, 1896:
Amendment proposed in Bills promoted by Amalgamated Society of Railway Servants, 1202, 1204.
Number of Boards of Conciliation registered under, 1065.
Conspiracy and Protection of Property Act, 1875:
Section 5, reference to in memorandum by Sir F. Pollock, 1191.
Sections 4 and 5, extension of to other statutory undertakings, suggested, 1299.
Watching and besetting, law as to under, 1241.

BEASLEY, Ammon—cont.**Acts of Parliament—cont.****Friendly Societies Acts :**

Section 2, application of certain parts of, to trade unions, suggested by Messrs. Harrison and Hughes, 1179.

Section 44 (Act of 1885), as to summary proceedings in disputes among members, 1169.

Trade Union Acts, 1871 and 1876 :

Based upon Minority Report of Royal Commission on Trade Unions 1867, suggestion as to, 1173.

Definition of a trade union, in Act of 1876, 1197.

Liability to be sued, position as to under, 987, 1019, 1155, 1179.

Amalgamated Society of Engineers :

Fines levied by, 995.

Piecework, rules as to, 987.

Rules, 987.

Taff Vale Railway Company, contact with during strike of 1895, 957.

Amalgamated Society of Railway Servants :

Account, general, of the society and its objects, 966, 968.

Bills promoted by, *re* Conciliation, 1202.

Funds :

Allocation, 977, 982.

Ear-marked for strikes or protective purposes, 975.

Availability of all funds for strike purposes, 977.

Contributions to orphan fund, by outside public, 968, 977.

Particulars, general, as to, 974.

Separation of funds, 977.

Membership :

Conditions as to, 973.

Number of members, statistics as to, and as to proportion to total number of railway servants, 966, 973, 1064.

Speech by Mr. Bell on, 1064.

Taff Vale Railway Company's employés, number belonging to, 960.

Non-Unionists, attitude towards, 1055.

Payments made to men engaged in furthering "movements," 968, 973.

Rules, 968, 970, 1064.

Taff Vale Railway Company, contact with, 957.

Committee (men's) appointed and paid by the society, *see* Taff Vale Railway Company, *subheading* Committee.

Grants to men dismissed from the company's service, 1085.

Strike of 1900, part played by the society in, *see* Taff Vale strike 1900.

Associated Society of Locomotive Engineers and Firemen :

Account, general, of funds, membership, etc., 980.

Allocation of funds, 982.

Taff Vale Railway Company, contact with, 957

Bills in Parliament, *re* Trade Unions, *see* Proposed Legislation *re* Trade Unions.

Black Lists, Employers' position as to, compared with men's position, 1333, 1334.

Cases :

Curran *v.* Treleaven, (1891, 2 Q.B., 545), 1192.

Howden *v.* Yorkshire Miners' Association (1903, 1 K.B., 308), 1019.

Mullet *v.* the United French Polishers (London) Society, 1019.

Springhead Spinning Company *v.* Riley (1868, L. R. 6 Eq. 551), 1159.

Taff Vale Case, *see that title.*

Temperton *v.* Russell (1893, 1 Q.B., 715), 1184, 1193.

Collieries, restriction of output in, *see* Restriction of Output.

BEASLEY, Ammon—cont.

Collective Bargaining, criticism of, 1379.

Conciliation (Arbitration) Act, 1896 :

Bills for amendment of, promoted by A.S.R.S., 1202, 1204.

Number of Boards of Conciliation registered under, 1065.

Conciliation Boards :

Compliance with awards, frequency of, 1052.

Failure of, alleged, 1001, 1042, 1066, 1073.

Inability of trade unions to enforce awards, instances of, 1024, 1047, 1053.

Violation of awards, instances of, 1200.

Number of Boards registered under the Act, 1065.

Railway companies, position of, as regards 'Conciliation,' 1078.

Sliding scale agreement, and rules of South Wales Miners' Federation as to, 997, 998, 1000, 1001.

Strikes for coercion of non-unionists not brought before Conciliation Boards, 1037.

Taff Vale Company in relation to :

Dismissal of Signaller Ewington, arbitration refused, 1121.

Strike of 1900, action as to during, 1066, 1068, 1107.

Conspiracy :

Discretion of judge and jury as to, views as to, 1230.

One law for employers and employed, desirability of, 1225.

Proposed legislation as to, *see* Proposed legislation *re* trade unions.

Conspiracy and Protection of Property Act, 1875, *see* Acts of Parliament.**Documents handed in by witness :**

Amalgamated Society of Railway Servants :

Accounts, 978.

Rules, 971.

Report, 967.

Arbitration awards, instances in which violated, list of, 1201.

Collieries, number of men employed, output of coal, etc., return as to, 1001, 1019.

Sliding scale agreements, copies of, 1000.

Strikes in South Wales, statistics as to, 1001.

Taff Vale case, proceedings before Mr. Justice Wills in December 1902, 1165.

Taff Vale Railway Company :

District covered by, map of, 952.

Pension Fund, etc., statements as to, 1099, 1100, 1101.

Wages paid, statement as to, 1098.

Taff Vale Strike 1900 :

Letters written in 1899, inciting to discontent, 1102, 1105.

Outrages, list of, 1149.

Programme of demands, 1106, 1127.

Employers' Associations :

Definition of trade unions in Act of 1876, includes Employers' Association, 1197.

Position of, identical with that of trade unions, views as to, 1317, 1320, 1326, 1336.

Friendly Societies, suggestions made before Commission of 1867 that trade unions should be protected as, 1169, 1170, 1179.

Friendly Societies Acts :

Section 2, application of certain parts of to trade unions, suggested by Messrs. Harrison and Hughes, 1179.

Section 44 (Act of 1885) as to summary proceedings in disputes among members, 1169.

Great Western Colliery Company Strike 1903, history of, 1024, 1032, 1053, 1201.

Intimidation :

Consideration of what amounts to, 1383.

Employers' position as to, compared with that of men, 1339.

BEASLEY, Ammon—cont.

Ironfounders' Society fines levied on members of, 995.

Law should be the same for all, employers and employed, 1225.

Lewis Merthyr Colliery :

Circular notice issued by Lewis Merthyr Lodge, 1013.

Stoppage of work at, 1130.

Liability of Trade Unions :

Cases as to, 1159, 1184, 1192, 1193.

(*see also* Taff Vale Case.)

Outsiders employed and paid by union for picketing purposes, etc., question as to liability under Mr. Paulton's Bill, 1289.

Proposed legislation as to, *see* Proposed legislation *re* trade unions.

Royal Commission on trade unions, recommendations, etc., as to, *see* Royal Commission on Trade Unions 1867.

Non-Unionists :

Article by Mr. Brace, justifying coercion, 1037.

Circulars as to coercion by unionists, 1013.

Letter from Non-Unionist as to persecution and coercion, 1398.

Refusal of board and lodgings to, 1013, 1015.

Royal Commission on Trade Unions 1867, report on, 1170, 1171.

Speeches by unionists, showing animosity, 1055.

Strikes and stoppages for coercion of, 1010, 1033, 1130.

Returns as to, 1010, 1032.

Peaceful Persuasion :

Impossibility of—always leads to intimidation, 1246, 1261, 1264.

Proposed legislation as to, *see* Proposed Legislation, *re* Trade Unions.

Picketing :

Merely to obtain or communicate information, existing law as to, 1250.

Outsiders, employment and payment by trade unions for picketing purposes, 1289.

Proposed legislation as to, *see* Proposed Legislation, *re* Trade Unions.

Royal Commission on Trade Unions 1867, Report of, on, 1171.

Piecework :

Taff Vale Company, adoption by, 987, 988, 995.

Trade union attitude towards, 987, 1379.

Proposed Legislation re Trade Unions :

Application to employers' associations, 1197.

Breach of contract, procurement of, effect on, if passed, 1215.

Extends to civil proceedings immunity from punishment under Act of 1875, 1222.

Justification alleged for, 1166.

Dilke, Sir Charles, Bill of 1903, 1209.

Breach of contract, procurement of, effect on, 1209, 1210, 1213, 1217, 1218.

Employers, effect on, 1211, 1222.

Peaceful persuasion and picketing, provisions as to, 1241.

Dilke, Sir Charles, Bill of 1904, 1269.

Effect of, as regards employers, would entail exemption from all liability as to wages, debts, etc., 1269.

Paulton, Mr., Bill of 1904, 1215 :

Conspiracy, existing law of, effect of Bill on, 1218.

Employers, effect on, 1281.

Trade unions, liability of, effect on, 1278, 1280, 1281, 1285, 1286, 1287.

Bell, Mr., speech on clause as to, 1281.

Shackleton, Mr., Bill of 1903, 1269 :

Breach of contract legalised by, 1269.

Picketing, effect on law relating to, 1269.

Trade unions, liability of, clause as to, ruled out by the Speaker, 1269.

Re-introduced in Mr. Paulton's Bill of 1904, 1277.

BEASLEY, Ammon—cont.**Railway Companies :**

Position of, as regards disputes, different from that of ordinary employers, owing to obligation to the public, 1075, 1296, 1335.

"**Railway Review**," attitude towards Taff Vale Railway Company, 1102, 1110.

Article warning men against the company, 1137.

Railway Servants :

Amalgamated Society of Locomotive Engineers and Firemen, *see that title*.

Amalgamated Society of Railway Servants, *see that title*.

Total number of, Board of Trade Returns as to, 968.

Restriction of Output, with special reference to collieries, 1002, 1022.

Decline in output per man, 1001.

Returns as to number of men employed, and amount of coal raised, 1001, 1019.

Intimidation, method of, 1029.

Legislation, suggestions as to, and views as to difficulty of, 1032, 1316, 1317.

Stoppage of work resulting from, 1024, 1032.

Royal Commission on Labour, 1891-4, Evidence and recommendations :

Definition of trade unions embraces employer's associations, 1197.

Exceptional legal position of trade unions, how far recognised by, 1184.

Memorandum on Law of Trade Unions, by Sir F. Pollock, 1186, 1191.

Non-unionists, attitude of unions towards, Labour Report on, 1055.

Railway companies, position of, with reference to strikes, evidence as to, 1073, 1077.

Tomperton v. Russell, reference to decision in, 1195.

Royal Commission on Trade Unions 1867-9, Evidence and recommendations :

Combination, right of, 1170, 1171.

Funds, trade union :

Protection against malversation only, asked for, 1169.

Separate investment of, report on, quoted by Lord Macnaghten in Taff Vale case, 979.

Liability and status of trade unions :

Exemption from liability never suggested, 1169, 1180, 1181.

Recommendations as to, 1170, 1171, 1180.

Memorandum of Messrs. Harrison & Hughes on, 1179.

Memorial from General Builders' Association, suggesting registration, 1170.

Registration, report on, 1171.

Memorandum by Sir W. Earle *re* freedom in disposition of labour and capital, 1179.

Minority report, quoted by Lord Macnaghten in Taff Vale case, 979, 1173, 1179.

Non-unionists, protection of, 1170, 1171.

Picketing, report on, 1171.

Proposed legislation *re* trade unions, report of on, 1171.

Questions issued to trade societies by the Commission, and answers received, 1169, 1170.

Strikes, right of workmen as to, 1171.

Shipwrights' Company of Newport, expulsion of members, 983.

Sliding Scale Agreement :

Conciliation Board under, 1000, 1001.

Nature and effect of, 997, 998, 1001.

South Wales Miners' Federation :

Account, general of the society, its establishment, membership, and rules, 996, 997.

Arbitration and conciliation, rules as to, 997.

Non-unionists, coercion of, 1013, 1033.

BEASLEY, Ammon—cont.**South Wales Miners' Federation—cont.**

Sliding scale agreement, 997, 998, 1000, 1001.
 Strikes affecting :
 Great Western Colliery (1903), 1024.
 Number of, and effect of on Taff Vale Railway Company, 957, 997, 998.
 Tower and Aberdare Merthyr Colliery, 1033, 1034.

Stonemasons' Society, fines levied on members of, 995.

Strikes :

Arbitration in, *see* Conciliation Boards.
 Effect on Taff Vale Company, of strikes in mining industry, 957.
 Full day for full day's pay—Newport shipwrights, dispute as to, 984.
 Methods leading up to, 1013.
 Non-unionists, strikes for coercion of, 1010, 1033, 1130.
 Returns as to, 1010, 1032.
 Piecework—Taff Vale fitters' strike, 957, 961.
 Expulsion, powers of union as to, exemplified in, 1354, 1362.
 Refusal to ratify settlement as to cutting price—Great Western Colliery strike of 1903, 1024, 1032, 1053.
 Arbitrator's award violated, 1201.
 Sunday work, dispute as to, Penarth Dock, 987.
 Statistics as to, 997, 1001.
 Taff Vale, *see that title*.

Taff Vale Case (1901 A.C. 426).

Connection of Amalgamated Society of Railway Servants with the strike, allegation as to, 1123.
 Damages in, 1165.
 Judgment in, 1155 :
 Effect of Mr. Paulton's Bill of 1904 on, 1285, 1286.
 Not contrary to what law was intended to be, 1169, 1179, 1181.
 Minority report of Royal Commission on trade unions, 1867, quoted by Lord Macnaghten in, 1179.
 Proceedings in, 1155.
 Real cause of the action, 1152, 1155.
 Signalman Ewington, case of, evidence as to, 1110, 1125, 1146.

Taff Vale Railway Company :

Arrangement as to building and repairs of locomotives and rolling stock, 958.
 Attitude towards trade unions—No question asked as to membership, etc., 960, 994, 1085.
 "Blacklegs," continued employment of, strike as to, threatened, 1154.
 Committee (Men's) :
 Appointed and paid by Amalgamated Society of Railway Servants, 1070.
 Composition of, 1070, 1073, 1082.
 Interference with working of the Company, 1070.
 No communication with, between 1895 and 1900, 1097.
 Refusal of the Company to treat with, 1071, 1073, 1083, 1084.
 Treated as an attack on the union, 1085.
 Resolution as to notices of dismissal sent to men during depression, 1081.
 Coal carried by, 954, 997.
 Conditions of service in, comparison with other companies, 1098.
 District covered by, 953.
 Engine repairing done by, 958, 959.
 Grants made by Amalgamated Society of Railway Servants to men dismissed by the Company, 1085.
 Mabon's day abandoned after strike of 1898, 1010.
 Pension scheme adopted by, 1099.
 Piecework adopted, 995.
 Fitters' strike resulting, 957, 987, 1354, 1362.
 Regulations for signalmen, strike threatened as to, 1078.

BEASLEY, Ammon—cont.**Taff Vale Railway Company—cont.**

Strikes in relation to, 957, 961, 997, 1000, 1010, 1022, 1070, 1354, 1362.
 Re-instatement of strikers, practice as to, 992.
 (*see also* Taff Vale Strike 1900.)
 Signalman Ewington, alleged dismissal of, 1110, 1137.
 Arbitration refused by the Company, 1121.
 Pretext for the strike of 1900, 1110, 1125, 1144, 1146.
 Telegram from President of the Board of Trade as to, 1136.
 Trade unions brought into contact with, 956, 957, 966.
 Wages, concession as to, previously to strike of 1900, 1144.

Taff Vale Strike, 1900 :

Account, general, of the strike, 1070, 1096, 1102.
 Amalgamated Society of Railway Servants, attitude of, during the strike :
 Action subsequently brought against the Society by the Company, *see title* Taff Vale Case.
 Articles, letters and statements inciting to discontent in 1899 and 1900, 1102, 1106, 1107, 1125, 1134, 1136, 1137.
 Barry and Rhymney men, action as to, 1106, 1110, 1145, 1152.
 Financial support to strikers, 1144, 1149.
 Availability of funds for strike purposes, statement as to, 977.
 Position of Mr. Bell and Mr. Holmes in relation to the strike, 1150.
 Advice by Mr. Holmes to men to leave before expiry of notice, 1144.
 Picketing arrangements, 1144, 1289.
 Programme of demands in 1899, 1106, 1127.
 Signalman Ewington's case made a pretext for the strike, 1110, 1121, 1125, 1146.
 Ballot, previously to strike, 1110, 1121.
 Barry and Rhymney men, in relation to, 1106, 1110, 1145, 1152.
 Board of Trade in relation to, 1136.
 Cardiff Chamber of Commerce, efforts of, to prevent strike, 1136.
 Cause of the strike, 1102, 1125, 1134.
 Board of Trade Report as to, 1155.
 Signalman Ewington, case of alleged as, *see title* Taff Vale Railway Company, *sub-heading* Signalman Ewington.
 Collieries and other industries, effect of the strike on, 1146, 1308.
 Conciliation, refusal of, 1066, 1107, 1136.
 Driver of hydraulic engine, Penarth Docks, dismissal of, 1089.
 Intervention in :
 By Sir F. Hopwood, 1152.
 By Sir W. Lewis, 1153.
 Meetings between employers and men, refusal to recognise A.S.R.S. representatives, 1108, 1109, 1137.
 Men carrying on work during :
 Accommodation, conditions of service, number employed, etc., 1015, 1061, 1146.
 Arrangement as to at end of the strike, 1061, 1153, 1154.
 Boycotting of, by unionists subsequent to the strike, 1055, 1064.
 Disbursements by A.S.R.S. in respect of sending back "Blacklegs," 1149.
 Outrages against, 1146, 1149, 1165.
 Men taking part in the strike, 962.
 Notices sent in, 1121, 1125, 1134, 1135.
 Appeal for withdrawal of, issued by the company, 1143.
 Holmes, W., advice to men to leave before expiry of notices, 1144.
 Number of men who had only partially worked out notices, and number giving no notice, 1144, 1145.
 Number of strikers, 1061.
 Payment made by company for conveyance of mails by road, 1146.

BEASLEY, Ammon—cont.**Taff Vale Strike, 1900—cont.**

Period of duration, 1095.
 Picketing, 1144, 1146, 1149.
 Non-unionists employed and paid by the union, for, 1289.
 Re-instatement of strikers, arrangement as to, 1153.
 Summonses for assault and breach of contract, 1165.

Temperton v. Russell (1893, I. Q.B., 715), 1184
 1193.

Tort of Trade Interference: Sir W. Erle on, 501.

Tower and Aberdare Merthyr Colliery Strike (1903), 1033, 1034.

Tinplaters, Monmouthshire, refusal to recognise the award of Sir Kenelm Digby, *re* Canadas, 1047.

Trade Dispute, definition of, what is included in, 993.

Trade Union Acts, *see* Acts of Parliament.

Trade Unions:

Absence of a legal claim on the part of members for redress against, 983, 1019.
 Case exemplifying, 1019.
 Coercion as to sending in notices, legislation as to suggested, 1316, 1362.
 Conciliation Boards, *see that title*.
 Definition of, in Act of 1876, terms used embraces employers' associations, 1197, 1198.
 Employers in relation to:
 Attitude of, 960, 994, 1085.
 Freedom as to recognition of, desirability of maintaining, 1375.
 Expulsion of members, powers of as to:
 Exemplified in Taff Vale Fitters' Strike, 1354, 1364.
 Legislation as to, suggested, 1316, 1389.
 Fines levied on Members, 995.
 Funds, provident and strike funds, separation advocated, 1316.
 Report of Royal Commission on Trade Unions 1867-9, on, 1174.
 Interference with individual free right to labour, legislation as to, advocated, 1319, 1362, 1375.
 Liability of, *see that title*.
 Non-unionists, attitude towards, *see* Non-unionists.
 Officials appointed only from members, 1289.
 Proposed legislation *re*, *see that title*.
 Restriction of output, *see that title*.
 Status of, suggestions as to, incorporation, 1361, 1320.
 Royal Commission on Trade Unions, 1867-9, Recommendation as to, 1171.
 Strikes more frequently encouraged than prevented by, 1371.
 (*see also titles of unions*, as Amalgamated Society of Railway Servants, etc.).

Watching and Besetting, law relating to, 1242.

BENHAM, F. R. Ex-Chairman and Official Representative of the Staffordshire Potteries Manufacturers Association. (See Questions 4977-5013.)

Briscoe v. Meakin, bearing of, on liability of Trade Union Funds, 4979, 4984.

Conciliation Board, Staffordshire Potteries Manufacturers Association, 5000.

Awards of, usually complied with, 5004, 5006.
 Wages question, objections to the Board in connection with, 5003, 5009.

Non-Unionists:

Instance of refusal to work with, 4980.
 Mere refusal to work with, could not be made illegal, 4996.

Picketing:

Peaceful persuasion in, impossible, 4979, 5012.

BENHAM, F. R.—cont.

Proposed Legislation, re Trade Unions, objections to, 4979.

Qualifications of, 4977.

Staffordshire Potteries Manufacturers' Association:

Aid to be rendered to members would be considered when necessity arose; 4990.
 Arbitration Board in connection with, 5000.
 Objects of, 4998.

Taff Vale Case, decision in, beneficial effect of, 4980.

Trade Union Funds:

Liability of, should be maintained, 4979.

BROWNE, SIR BENJAMIN C., Chairman of R. & W. Hawthorn, Leslie & Co., Ltd., Engineers and Shipbuilders. (See Questions 2717-2953.)**Black Lists:**

Employers and workmen in relation to, 2721, 2783, 2895.

Collective Agreements:

Government as an employer, position as to, 2923.
 Negotiations between employers and Trade Unions, advantages of, 2827, 2913.

Conciliation, general method of procedure in Employers' Federation, for peaceful settlement of disputes, 2771, 2914, 2917.

Conciliation Boards, awards usually carried out, 2944.

Conspiracy to Injure, effect of numbers on, 2823.

Durham Coalowners' Association:

Aid rendered by, to members struck against, 2770.

Engineering Employers' Federation:

Aid rendered by, to members struck against, 2770-2906.

Friendly Societies Acts, question whether similar legislation is desirable for Trade Unions, 2845.

Law should be the same for employers and employed, 2721, 2774, 2769, 2830, 2835, 2899.

Non-Unionists:

Trade Union attitude towards:
 Discretion of Court as to legality of, 2814.
 How far justifiable, 2795, 2935.

Northumberland Coalowners' Association:

Aid rendered by, to members struck against, 2770, 2906.

Picketing:

Inefficient without intimidation, 2721, 2731.
 Intimidation in, serious effect in gas or railway strikes, 2748.
 Proposed legislation as to, mischievous effect of, 2769.
 Recent decisions, effect of on, 2721.
 Unnecessary in order to obtain or communicate information, 2731.

Proposed Legislation, re Trade Unions, views as to, 2769, 2826, 2928, 2952.

Qualifications of, 2717.

Shipbuilding Employers' Federation:

Aid rendered by, to members struck against, 2770, 2906.

Strikes:

Not the strongest weapon of Trade Unions, 2721, 2856, 2859.
 Sympathetic Strikes, legislation as to, unnecessary, 2875.
 Where public safety is affected, views as to, 2721, 2748, 2754, 2861.

BROWNE, Sir Benjamin C.—cont.**Taff Vale Case:** (1901. A. C. 426.)

Decision in, effect of on Employers' Liability, 2721.
General law of agency possibly needs amendment, 2722, 2835.

Trade Unions:

Advantages of existence of Trade Unions for settlement of disputes, etc., 2772, 2780, 2857, 2927.
Advising men to strike, should not be liable for, 2778.
Amendment of law as to unnecessary, 2769, 2882, 2928.
Discretion of Court as to conduct of, views as to, 2814.
Duties of Trade Union delegates, no explicit definition of at present, 2836.
Employers' Associations are also Trade Unions, 2721.
Law of, uncertainty as to, 2833.
Liability of views as to, 2722, 2835, 2841, 2952.
Members of, should be allowed to cease work for any reason, 2880.
Negotiations with, approved, 2913.
Difficulty as to enforcing awards, 2931, 2943.
Status should be same as that of other combinations, 2841, 2952.
Wages, agreement of large bodies of men as to, a stronger weapon than strikes, 2721, 2856, 2859.

CARDWELL, JOSEPH, Secretary of the Association of Non-Unionists, South Shields. (See Questions 4276-4330.)**Association of Non-Unionists:**

Constitution of, 4294.
Financial position of, 4319.
Membership of, 4295, 4304.

Conspiracy and Protection of Property Act 1875:

Qualifying clause of Section 7 of, should be repealed, 4277.

Document handed in, extracts from the rules of the Association of Non-Unionists, 4278.

Picketing:

Abolition of, suggested, 4277.
Peaceful persuasion in, leads to intimidation, 4271, 4277, 4281.

Proposed Legislation re Trade Unions, objection to 4277, 4281.

Qualifications of, 4276, 4327.

Taff Vale Case (1901, A. C. 426):

Decision in, should be maintained, 4286, 4326.

CHAMBERLIN, A. E. W., see Hickson, W.**COLLISON, W., General Secretary and Manager of the National Free Labour Association. (See Questions 4608-4651.)****Association of Non-Unionists:**

Witness knows nothing of, 4648

Conspiracy:

Common law liability as to, 4610 (page 260),

Conspiracy and Protection of Property Act, 1875:

Qualifying clause of section 7 of, should be repealed, 4610 (page 260), 4613.

Employers and Workmen, Breaches of Agreement between, question as to payment for by Trade Unions, 4635.

National Free Labour Association:

Aims and objects of, 4610 (page 262).
Date of foundation, banking accounts, registration, questions as to, 4622.
Rules of, 4644.
Strike agreement forms issued by, 4619.

COLLISON, W.—cont.**Picketing:**

Illegal if effective, 4621.
Peaceful persuasion in, leads to intimidation, 4610 (page 259), 4611.
To obtain or communicate information, not objected to, if done by two persons only, 4614.
Violence in, reduced since Taff Vale decision, 4610 (page 262).
Watching and besetting in, 4610 (page 259).
Qualifying clause, in section 7, of the Conspiracy and Protection of Property Act, 1875, should be repealed, 4610 (page 260), 4613.

Proposed Legislation re Trade Unions, objections to, 4610 (pages 259, 260, 261).

Qualifications of, 4608, 4610 (page 259).

Strikes:

Since 1894, particulars as to, 4610 (pages 261, 262).

Taff Vale Case (1901, A. C. 425):

Decision in, has reduced violence in picketing, 4610 (pages 261, 262).

Trade Unions:

Advantages of existence of views as to, 4632.
Aims and objects of, 4610 (pages 259, 260, 261), 4629.
Funds, liability of, should be maintained, 4610, (pages 259, 261.)
New Unions created after London Dock strike of 1899, 4610 (page 261).
Recent legal decisions as to, effect of, 4610 (pages 261, 262).

Trade Union Act, 1871, section 2, as to exemption from criminal liability, 4610 (page 260).

CORELLI, C., Secretary of the Association of London Master Tailors. (See Questions 2704-2716.)**Association of London Master Tailors:**

Aid rendered by, to members struck against, 2708-2715.
Rules of, 2716.

Conciliation Board, suggestion that only officers elected at annual meetings should be eligible for, 2707.

Document handed in—Extract from the constitution and rules of the London Master Tailors, 2716.

Picketing:

Effect of, if proposed legislation were enacted, 2707.

Proposed Legislation, re Trade Unions, views as to 2707.

Qualifications of, 2704.

Strikes:

Intimidation during, instances of, 2707.
Notices should be compulsory, 2707.
Sympathetic strikes, views as to, 2712

Trade Unions:

Beneficial effect of recent decisions on, 2707.
Law as to, suggestion for strengthening, 2707.

DUKE, JAMES, an aggrieved and expelled member of the Boiler-makers and Iron Shipbuilders' Union. (See Questions 3018-3056.)

Newspaper and Libel Registration Acts, application of, to Trade Union Reports, advocated, 3021.

Picketing:

Peaceful persuasion in, objections to, 3021, 3046.

Proposed Legislation re Trade Unions, objections to, 3021, 3051.

Qualifications of, 3018.

DUKE, James—cont.

Royal Commission on Labour 1891-4, evidence before, as to superannuation allowances, 3043.

Trade Union Act, 1871:

Section 4 of, should be amended, 3021, 3022.

Trade Unions:

Funds of, division of, for trade and benefit purposes advocated, 3021.

Members of, have no legal remedy against, 3021, 3022, 3024, 3045.

Publication of monthly reports of, objections to, and suggestion as to placing such Reports under the Newspaper and Libel Registration Acts, 3021.

ELLIS, WILLIAM, General Secretary of the Provincial Free Labour Association, Glasgow. (See Questions, 5441-5443.)

National Free Labour Association:

Document referring to, 5443.

FRENCH, DAVID, Partner in Messrs. Wragg and Company, Stonemasons, King's Heath, Birmingham. (See Questions, 4777-4794.)

Black Lists:

Employer's name circulated for himself working overtime, 4778.

Conspiracy and Protection of Property Act, 1875:

Section 7, qualifying clause should be repealed, 4787.

Non-Unionists:

Boycotting and fining, instances of, 4778, 4782, 4792.

Refusal to work with should be illegal, 4778, 4794.

Operative Stone-masons' Society:

Prohibits even Non-members from working for employer who is Non-unionist or struck against, 4792.

Picketing:

Abolition of, suggested, 4787.

Police protection against, insufficient, 4789.

Proposed Legislation re Trade Unions, objections to, 4778.

Qualifications of, 4777.**Strikes:**

Unreasonable or illegal, discussion as to which are, 4782, 4794.

Trade Unions:

Fines inflicted on Non-unionists, and on men working with Non-unionists, 4778, 4782, 4792.

Fining working employers for working overtime, 4778.

Funds, liability of, should be maintained, 4778, 4785.

GREENWOOD, BENJAMIN J., Ex-President of the National Federation of Building Trade Employers of Great Britain and Ireland, (See Questions 1912-1923.)

Picketing:

Effects of, 1915.

How far allowable, 1918.

Peaceful persuasion in, would lead to intimidation, 1917.

Proposed Legislation re Trade Union, views as to, 1914.

Sir C. Dilke's Bill, objections to, 1922.

Qualifications of, 1912:**Trade Union Funds:**

Liability of, should be maintained, 1920.

GUTHRIE, REGINALD, Secretary to the Coalowners' Associations of Durham and Northumberland (See Questions 1406-1568).

Act of Parliament, see Conspiracy and Protection of Property Act.

Bank Holidays, dispute as to recognition of, 1408.

Collective Bargaining, attitude as to, of Northumberland and Durham coalowners, and South Wales coalowners, compared, 1426, 1427, 1433.

Conciliation Boards:

Amicable settlement of disputes by, 1412.

Refusal of trade unionists to accept settlements agreed to by representatives, 1412.

Legislation as to, advocated, 1412, 1547.

Conspiracy:

Acts legal if done by individuals, when done in combination chargeable as, 1479.

Discretion of judge and jury as to, views as to, 1483.

Law as to, should be maintained, 1440, 1473.

Conspiracy and Protection of Property Act, 1875.

Distinction between "obtaining or communicating information" and "peaceful persuasion," 1462.

Effect of provisions as to "obtaining or communicating information" under, 1436.

Repeal of qualifying Clause—Section 7, views as to, 1438, 1439.

Employers' Associations:

Negotiations between employers and workmen's associations, legislation as to, advocated, 1412, 1547.

Northumberland and Durham Coalowners' Associations, see *that title*.

Intimidation, threat to stop work, when to be considered as, 1554.

Irregular Working by Colliers, complaints as to, 1412.

Law should be the same for all, employers or employed, 1543, 1554.

Liability of Trade Unions, proposed legislation as to, see Proposed Legislation re Trade Unions.

Non-Unionists:

Strikes and stoppages owing to employment of, see *title* Strikes and Stoppages.

Refusal to work with, 1415.

Northumberland and Durham Coalowners' Association:

Objects of, relations with trade unions, etc., 1412, 1426, 1433.

Proposed legislation re trade unions, views as to, 1408.

Nuisance, would be created under proposed legislation re trade unions, 1408.

Peaceful Persuasion, impossibility of, inevitably leads to intimidation, 1408, 1474.

Proposed Legislation re Trade Unions:

Coalowners, effect of on, 1408.

Conspiracy, law of, proposed alteration of, 1408, 1534.

Liability of trade unions, proposals as to, 1408, 1412, 1534.

Peaceful persuasion, proposals as to, 1408, 1436, 1462.

Qualification of witness, 1406, 1412.

Royal Commission on Labour 1891-4, observations as to fulfilment of obligations agreed upon by employers and employed in course of negotiations, 1412.

GUTHRIE, Reginald—cont.**Strikes and Stoppages of Work :**

Act of striking and inducing to strike, distinction between, 1488, 1523, 1549.

Against employers who have no concern in dispute, 1409.

Views as to whether this should be punishable, 1496, 1531.

Arbitration awards, refusal to abide by, strike resulting at Trimdon Colliery, 1412.

Discharge of men, strikes as to :

Owner's refusal to agree to discharge—Byers Green Colliery, 1412.

Owners refusal to recall discharge—Sherburn Colliery, 1412.

Fines, strike to enforce payment of—Felling Colliery, 1408, 1412, 1474.

Method of working a mine, strike as to—Washing-ton Colliery, 1412.

Non-unionists, strikes against, 1409, 1415, 1496. Ouston Colliery, 1409.

Views as to whether this should be punishable, 1490, 1533.

Payment of trade unions subscriptions, strike to enforce, 1409.

Sympathetic strikes, suggestion that they should be made illegal, 1513, 1531.

Trade Unions :

Employers' attitude towards, 1409.

Liability, proposed legislation, *see title* Proposed Legislation *re* trade unions.

HADDEN, JAMES A., Solicitor, Aberdeen ; and Secretary to the United Kingdom Granite and Whinstone Quarry Masters' Association. (*See* Questions 4750-4776.)

Conspiracy :

Law as to, should be maintained, 4752.

Non-Unionists :

Employment of, should be unhampered, 4752, 4763.

Picketing :

Abolition of suggested, 4760, 4775.

Lyons *v.* Wilkins decision in, as to, should be maintained, 4752.

Peaceful persuasion in, objections to, 4752, 4769.

Proposed Legislation *re* Trade Unions, objections to, 4752.

Qualifications of, 4750.

Strikes, legitimate causes of, views as to, 4757, 4763.

Taff Vale Case, decision in, beneficial results of, 4752, 4767.

United Kingdom Granite and Whinstone Quarry Masters' Association :

Aid rendered by, to members threatened for employing Non-Unionists, 4752.

Attitude towards Trade Unions, 4752.

Apprentices rules of, as to, 4753, 4773.

Constitution of, 4752.

HEENAN, JOHN, Watchman on the River Thames. (*See* Questions 3787-3807).

Non-Unionists :

Injury would be caused to, by suggested amendments of the Law of Conspiracy, 3791.

Threat to strike against, should be actionable, 3803.

Picketing :

Abolition of, suggested, 3791, 3798.

Peaceful persuasion in, leads to intimidation, 3805.

Proposed Legislation *re* Trade Unions, objections to, 3791.

HEENAN, John—cont.

Qualifications of, 3787.

Strikes, intimidation in, 3791, 3794.

Trade Unions :

Liability of, should be maintained, 3791, 3800.

HICKSON, ALDERMAN W., President of the Incorporated Federated Associations of Foot and Shoe Manufacturers of Great Britain and Ireland (*See* Questions 4220-4275.)

Actions for interfering with business or contracts :

Sir C. Dilke's Bill restricting, objections to, 4221.

Conciliation Board :

Agreement as to, between Employers' Association and the Union, advantages of, 4221, 4239, 4266

Awards usually carried out, 4241, 4269.

Conspiracy :

Law as to, general, and should be maintained, 4221.

Incorporated Federated Association of Boot and Shoe Manufacturers :

Aid rendered to members struck against, 4253.

Arbitration by, 4239, 4266.

Objects of, 4236-4257.

Picketing :

Abolition of, suggested, 4222, 4250.

Peaceful persuasion in, leads to intimidation, 4221, 4228, 4270.

Proposed Legislation *re* Trade Unions, objections to, 4221, 4247.

Qualifications of, 4220.

Strikes :

Boot and shoe trade, 1895, intimidation in, 4221, 4271.

Magistrates' action during, 4272.

Sympathetic strikes, comparison of, with employers' lock-outs, 4256.

Taff Vale Case (1901, A.C. 426.) :

Decision in, should be maintained, 4232.

Trade Disputes :

Settlement of, by arrangement, in boot and shoe trade, 4221, 4239, 4266.

Trade Union Funds :

Liability of, should be maintained, 4221, 4234, 4248.

INGLIS, JOHN, LL.D., President and Official representative of the Shipbuilding Employers' Federation. (*See* Questions 3911-4040.)

Black-Lists :

Legitimacy of, discussed, 3956, 4002.

Boilermakers' Society :

Black-listing of Employers by, 'for employing Non-Unionists, 3911, 3956, 4002.

Conspiracy :

Discretion of Court as to what constitutes, approved, 3947.

Employers' and workmen's position under present law of, contrasted, 4012.

Proposed legislation as to would legalise a nuisance, 3911, 3947.

Employers' Associations, proposed legislation *re* Trade Unions would apply equally to, 3911.

Law should be the same for employers and employed, 4012.

Non-Unionists :

Attitude of Trade Unionists towards, interference with employment, etc., 3911, 3922, 3956, 4002.

Present state of law as to strikes against, 3922.

INGLIS, John, LL.D.—cont.

Picketing :

Peaceful picketing leads to intimidation, 3920.
Unnecessary and objectionable, 3911, 3917.

Proposed Legislation re Trade Unions, objections to, 3911.

Qualifications of, 3911.

Shipbuilding Employers' Federation :

Agreements with Trade Unions, 3911, 4025.
Aid rendered by to members struck against, 3984.
Constitution of, 3911.
Objects of, 3982.

Strikes :

Demarcation of work as a cause of, 3940.
Non-Unionists, strike against: Present law as to, 3911, 3922.
Wages question as cause of, 3945.

Trade Unions :

Actions by, against members of Union, qualified approval of, 4033.
Breach of contract—Members of Boilermakers' Society cautioned to avoid, 4006.
Damages in, instances of, paid by the Union, 4009.
Defaulting Trade Unionists, demands for dismissal of, 3911, 3933, 3946, 3979.
Enforcement of agreements by, 4025.
Liability should be maintained, and Trade Unions be on an equality with other combinations in this respect, 3911, 4012, 4031.
Recent decisions have not appreciably affected attitude towards Non-Unionists, 3911, 3922.

JACOBS, T. W., junr., Managing Director of the Thames Steam Tug and Lighterage Company, Limited, and formerly President and Official Representative of the Association of Master Lightermen and Barge Owners of the Port of London. (See Questions 2660–2674.)

Actions for interfering with business or contracts :

Sir C. Dilke's Bill to restrict, criticised, 2662 (page 174).

Association of Master Lightermen and Barge Owners :

Aid rendered by, to members struck against, 2663.

Conspiracy :

Law as to considered a matter for legal argument, 2662 (page 174).

Peaceful Persuasion, leads to intimidation, 2662 (page 173), 2674.

Picketing :

Intimidation by means of, examples of, 2662 (pages 173, 174).
Legal decisions as to, good effect of, 2662.
Lighterage business, case with which picketing is carried on in, 2662 (page 173).
Peaceful persuasion in, leads to intimidation, 2662, 2674.
To communicate information, unnecessary, 2662.

Proposed Legislation re Trade Unions, views as to, 2662 (page 172).

Qualifications of, 2660.

Strikes :

Lightermen's Strikes of 1900 and 1901, 2662 (page 173).
Sympathetic strikes, views as to, 2670.

Trade Union Funds :

Liability of, should be maintained, 2662 (page 174).

JAMES, M. C., Managing Director of the Mercantile Dry Dock Company, Jarrow-on-Tyne, and Chairman of the North East Coast Ship Repairers' Association. (See Questions 4652–4749.)

Black Lists, issue of, 4658.

Position of Employers and workmen as to, contrasted, 4668.

Documents handed in :

Extracts from Report of United Society of Boilermakers and Iron and Steel Shipbuilders, for January 1900, 4678.
Rules of North-East Coast Ship Repairers' Association, 4678.

Non-Unionists :

Employment of, should be unhampered, 4653, 4671, 4704.
Refusal to work with, 4710, 4737.
Ships built by firm employing, boycotted by Union. 4739.

North East Coast Ship Repairers' Association :

Aid rendered by, to members struck against, 4655.
Amicable relations with Trade Unions, 4653.
Boilermakers' Society demands on, 4653.
Interference with employment of Non-Unionists by, 4653.
Names of strikers circulated by, contrasted with men's black-lists, 4668.
Rules of, 4654, 4676.
Technical delegates appointed by, to meet Trade Union delegates, 4653.

Picketing :

Abolition of, suggested, 4679.
Numbers in, constitute a menace, 4653.
Object of, 4653.
Peaceful persuasion in, impossible, 4653.
Ship-repairing trade, injurious effect of, on, 4653.

Proposed Legislation re Trade Unions, objections to 4653.

Qualifications of, 4652.

Strikes :

Delegates of Trade Unions, ordering strikes without executive authority, should be liable, 4682.
Demarcation of work as a cause of, 4743.
Engineers, shipbuilding yard, Jarrow-on-Tyne, strike without notice, 4711, 4741.
Sympathetic strikes, objections to, 4653.

Taff Vale Case (1901, A.C. 425).

Decision in, benefits accruing from, 4699, 4715.

Trade Unions :

Advantages of, 4653.
Attitude of employers towards, 4653, 4704, 4707.
Law as to, position of employers and employees under, contrasted, 4653 (page 265).
Members of, sometimes refuse to obey leaders, 4653 (page 264), 4741.

KEARSEY, R. A., see Taylor, S.

KENSHOLE, CHARLES, Solicitor to the Monmouthshire and South Wales Coalowners' Association. (See Questions 1730a–1891.)

Black Lists, prohibition of, by law, advocated, 1798.

Cases :

Glamorgan Coal Company v. South Wales Miners' Federation (I. K. B. 1903, p. 118)—Sir Charles Dilke's Bill would legalise proceedings of men in, 1742.
Quinn v. Leatham (1901 A.C. 495), Effect of, on stoppages, 1784.
Taff Vale case (1901 A.C. 426), effect of, on stoppages, 1731, 1749, 1783, 1853.

Document handed in—Extract from the Deed of Arrangement [with amendments] of the Monmouthshire and South Wales Coalowners' Association, 1790.

KENSHOLE, Charles—cont.**Liability of Trade Unions :**

Proposed legislation as to, probable effect of, 1736.
Views of witness as to, 1736, 1867.

Monmouthshire and South Wales Coalowners Association :

Particulars as to, 1730a.
Rules of, 1787.
Sliding Scale Agreement, 1730a.
"Strikers," employment of, 1795.

Non-Unionists :

Refusal of lodgings to, 1768.
Strikes against, *see* strikes.

Peaceful Persuasion, impossibility of, inevitably leads to intimidation, 1762, 1769.

Picketing :

Abolition of, advocated, 1843.
Attitude of trade unions as to violence in, 1836.
Injuries to which collieries are specially liable, 1772.
Intimidation resulting, 1761, 1835, 1843.
Proposed legislation as to, views as to, 1761.

Proposed Legislation re Trade Unions—Sir C. Dilke's Bill :

Breach of contract, effect of, on, 1735, 1859.
Employers, probable effect of, on, 1736.
Liability of trade unions, proposals as to, 1739.
"Trade disputes" in meaning of, 1745.

Qualifications of Witness, 1730a.

Sliding Scale Agreement, particulars of, 1730a.

South Wales Miners' Federation :

Attitude of, towards non-unionists, 1730a.
Number of strikes since establishment of, 1730a, 1887.
Particulars as to, 1730a.
Sliding Scale Agreement, 1730a.

Strikes and Stoppages of Work :

Aberdare Colliery, 1761, 1763, 1839.
Breach of contract in, proceedings against individuals ineffectual, 1862.
Non-unionists, strikes against, 1730a, 1749.
Newspaper extracts giving accounts of, 1768.
Number of, and loss entailed by, 1730a.
Views as to whether this should be punishable, 1815.
Notices, strikes without :
Contrasted with strikes *with* notices, 1877.
Number of, 1730a.
Number of strikes in South Wales :
Quinn v Leatham, effect of, on, 1784.
Return as to, 1887.
Taff Vale decision, effect of, on, 1731, 1749, 1779, 1853.
Payment of subscriptions to trade unions, stoppages for enforcement of, 1730a.
Sympathetic strike, no objection to, provided notice is given, 1829.

Taff Vale Case (1901 A. C. 426). Decision in, effect of on stoppages, 1731, 1749, 1779, 1853.

Trade Unions :

Liability of, views as to, 1739, 1867.
Proposed legislation as to, *see that title*.
South Wales Miners' Federation, *see that title*.

KNOTT, F. B., see Warburton, T.

LAMBERT, RICHARD, Managing Director of the Union Lighterage Company, and formerly President and official representative of the Association of Master Lightermen and Barge Owners of the Port of London. (*See Questions 2605-2659.*)

Association of Master Lightermen and Barge Owners :

Aid rendered by, to members struck against, 2621.
Rules of, 2658.

LAMBERT, Richard—cont.**Non-Unionists :**

Employment of, in lighterage trade, 2651.

Peaceful Persuasion, leads to intimidation, 2607, 2608.

Picketing :

Legal decisions as to, should be maintained, 2607.

Proposed Legislation re Trade Unions, views as to 2607.

Qualifications of, 2605.

Strikes :

In Lighterage business, particulars as to, 2607, 2609, 2643.

Magistrates' administration of law during, inclines to leniency, 2614.

Notice should precede announcement of, 2639.

Police protection, necessity for, and extent to which it is satisfactory, 2607, 2610.

Sympathetic Strikes, views as to, 2632.

Trade Unions :

Attitude of Employers towards, 2655.

Liability of, decision as to should be maintained, 2607.

Powerful position of Lightermen's Union, owing to conditions as to employment of licensed men, 2651.

LAVINGTON, G., see Taylor, S.

LAWS, CUTHBERT, General Manager of the Shipping Federation. (*See Questions 5374-5440.*)

Conspiracy, Law as to, strengthening necessary, 5381.

Conspiracy and Protection of Property Act, 1875 :

Section 7, qualifying Clause of, should be repealed, 5376 (p. 303, col. 1), 5379, 5426.

National Amalgamated Sailors' and Firemen's Union :

Policy of, 5376. (p. 301, col. 1.)

Non-Unionists :

Boycotting of, advocated by Trade Unionists, 5376.

Question whether this should be illegal, 5410.

Picketing :

Abolition of, suggested, 5376 (p. 303, col. 1), 5397, 5438.

Intimidation by means of, should be prevented, 5415.

Magistrates' attitude in cases of, questions as to, 5291, 5406.

Numbers in relation to, 5394.

Peaceful persuasion in, considered impossible, 5376 (p. 303, col. 1.), 5427.

Shipping trade peculiarly open to, 5376 (p. 302, col. 1), 5400.

"To obtain or communicate information" unnecessary, 5376 (p. 303, col. 1), 5440.
Difficulty of proof as to real purpose of, picketing, 5381.

Proposed Legislation re Trade Unions, objections to 5376 (p. 302, col. 2; p. 303), 5414.

Qualifications of, 5374.

Shipping Federation :

Depôt Ship for lodging workmen in during strikes provided by, 5376 (p. 302, col. 2), 5403, 5439.

Origin and working of, 5376 (p. 301, col. 2, and p. 302, col. 1.)

Strikes :

Intimidation in, instances of, 5376 (p. 302, col. 2), 5426.

Non-Unionists, strikes against, should not be made penal, 5408.

Police protection in, how far effectual, 5400, 5434.

Ineffectual, instance of, 5376 (p. 302, col. 2).

LAWS, Cuthbert—cont.

Trade Unions :

- Liability should be maintained, 5376 (p. 302, col. 2), 5414.
- Comparison of present position as to liability, with that of other bodies, 5421.

LISCOMBE, A. C., an aggrieved and discharged Trade Unionist. (*See Questions 3753–3786*).

Conciliation :

- Compulsory arbitration advocated, 3753.

Non-Unionists :

- Position of, contrasted with that of Trade Unionists, 3753.

Picketing :

- Peaceful persuasion in, not defined in proposed legislation, 3753.

Proposed Legislation re Trade Unions, objections to, 3753.

Qualifications of, 3753.

Trade Unions :

Funds :

- Accounts, compulsory audit of advocated, 3753, 3771.
- Liability of, should be maintained, 3753.
- Parliamentary purposes, use for, objections to, 3753.
- Members of, should have a legal remedy against, 3753.
- Compulsory arbitration suggested as, 3753.
- Withdrawal from, rules as to, suggested, 3753.

United Patternmakers' Association :

- Expulsion of member for acting contrary to interests of, 3753.

LIVESEY, SIR GEORGE, M.I.C.E., M.L.M.E., Chairman of the South Metropolitan Gas Company. (*See Questions 4331–4607*).

Actions relating to business or contracts :

- Restrictions on, in Sir C. Dilke's Bill, objection to, 4333 (page 248), 4366.

Agreements between Employers, and Trade Unions :

- Breach of, liability of Trade Union, in cases of, views as to, 4527.
- Inability of Unions to enforce agreements, 4532.

Agreements, South Metropolitan Gas Company's, with employees, *see* South Metropolitan Gas Company.

Amalgamated Society of Engineers :

- Financial position of, 4437, 4441, 4553.

Conspiracy and Protection of Property Act 1875 :

- Section 4 of, should be extended to all undertakings of public necessity, 4333 (pages 247, 249), 4373.

Co-partnership or profit-sharing :

- Advantages of, 4333 (pages 247, 248, 249).

Gas and Water companies :

- Law at present sufficient to protect if breach of contract arises, 4397, 4511, 4607.
- Sliding Scale system, introduction of, 4569.
- Special provisions as to breach of contract by persons employed in, 4333 (page 247), 4474.

Gas Companies' Protection Association :

- Rules of, 4422.

Law should be the same for employers and employed, 4526.

LIVESEY, Sir George, M.I.C.E., M.L.M.E.—cont.

Picketing :

- Abolition of, suggested, 4334.
- Intimidation resulting from, should be prevented, 4447.
- Peaceful persuasion in means intimidation, 4333 (pages 247, 248), 4457.
- Recent decisions, effect of, on, 4333.
- To obtain or communicate information, unnecessary, 4333 (page 248), 4337.
- Should not be allowed by more than two persons, 4333 (page 248), 4465.

Proposed Legislation re Trade Unions :

- Beasley, Mr., evidence as to, agreed with by witness, 4333 (page 247.)
- Dilke, Sir C., Bill of, objections to, 4333 (page 248), 4366.
- Liability of Trade Unions, proposals as to, objection to, 4333 (page 248) 4367, 4411.
- Paulton, Mr., Bill of, objections to, 4333 (page 248).
- Picketing proposal, objections to, 4333 (pages 247, 248).

Qualifications of, 4331 (page 247).

Royal Commission on Labour, 1891–4 :

- Liability of Trade Union Funds in cases of breach of agreement, recommendations as to, 4527.
- Report of, as to bringing Trade Unions within the law, difficulties as to removed by Taff Vale decision, 4425.

South Metropolitan Gas Company :

- Agreements by, with employees, 4399, 4582.
- Difficulty as to employers generally adopting, 4472, 4607.
- Railways might adopt similar agreements, 4402, 4406, 4607.
- Trade Union attitude towards, 4399, 4569.
- Contracts of employment by, with employees, 4333 (pages 247, 249), 4346.
- Co-partnership arrangement by, with employees, 4333 (pages 248, 249).
- Strike in 1889, particulars of, 4333 (pages 247, 248), 4362, 4378, 4571.
- Trade Unions have no influence over, 4333, (page 247), 4569.

Strikes :

- Non-Unionists, strikes against, views as to whether should be prohibited, 4517.
- Nottingham lace-makers, Union unable to enforce its agreement with employers, 4532.
- Police assistance in time of, 4333, 4378.
- Prevention of 'blacklegs' from getting lodgings in time of, should be prohibited, 4413.
- Prevention of, means adopted for, 4333 (pages 247, 249), 4346.
- Public interests, strikes affecting, 4333 (page 247), 4373, 4472, 4576.
- Sympathetic strikes :
 - Gas-workers' strike 1889, sympathetic strikes in consequence of, 4333 (page 247), 4362.
 - Legality of, views as to, 4362.
- Threat as to, without breach of contract should be allowed, 4510, 4516.
- Wages a legitimate ground for, 4456.

Sympathetic strikes :

- Gas strike 1889, sympathetic strikes in consequence of, 4333 (page 247), 4362.
- Legality of, 4362.

Taff Vale Case (1901. A.C. 425) :

- Decision in, should be maintained, 4333 (page 248), 4411.

Trade Unions :

- Absence of any legal claim against the Union on the part of individual members, 4437.
- Advantages of existence of, 4576.
- Agreements, inability to enforce, 4532.
- Attitude of South Metropolitan Gas Company towards Trade Unions, 4333 (page 247), 4399, 4569.

LIVESEY, Sir George, M.L.C.E., M.L.M.E.—cont.**Trade Unions—cont.****Funds.**

Liability of, should be maintained, 4366.
For breach of agreements, views as to, 4527.

Separation of, suggested, 4333 (*page* 248), 4442, 4529, 4590.

Liability should be maintained, 4333 (*pages* 247, 248), 4367, 4411, 4530.

LOCKET, GEORGE C., Vice-Chairman of the Society of Coal Merchants in London. (See Questions 1892-1911).**Picketing :**

Abolition of, unnecessary, 1898.
Peaceful persuasion in, law should not allow, 1897, 1899, 1908.
Police action in relation to, 1898, 1905.

Proposed Legislation re Trade Unions :

Liability of trade unions, proposals as to, 1900, 1901.
Picketing, proposals as to, 1897.

Qualifications of, 1892.**Sympathetic Striker :**

In coal trade during Dock Strike (1889), 1895, 1902.

Trade Union Funds :

Liability of, should be maintained, 1900, 1901.

LOCKHEAD, HARRY, Superintendent of the Cheshire District of the Salt Union, Limited. (See Questions 3602-3667.)**Actions for interfering with business or contracts :**

Restriction of, in Sir C. Dilke's Bill, objections to, 3606.

Conspiracy :

Law as to, should be maintained, 3606.

Non-Unionists :

Refusal to work with, question as to, 3665.
Strikes against, should be actionable, 3663.
State protection during strikes advocated, 3664.

Picketing :

Information communicated or obtained by one person not objected to in, 3606.
Peaceful picketing leads to intimidation, 3606, 3610.

Proposed Legislation re Trade Unions :

General views as to, 3606.

Qualifications of, 3602.**Salt Union, Limited, constitution and objects of, 3603.****Strikes :**

Intimidation and violence in, instance of, 3606.
Non-Unionists, strikes against, should be actionable, 3663.

Sympathetic strikes :

Comparison with general lock-outs, 3624
Should be illegal, 3611.

Trade Disputes :

Civil liability for conspiracy in, should be maintained, 3606.

Trade Unions :

Attitude of employers towards, 3609.
Effect of recent decisions on conduct of, 3606.
Funds of :
Liability should be maintained, 3606, 3640.
Property of individual members to be excepted, 3652, 3657.
Separation of, suggested, 3641.

MILLAR, FREDERICK, Secretary to the Employers' Parliamentary Council, and to the Labour Protection Association. (See Questions 3206-3474.)

Black Lists, issue of by Trade Unionists, 3208, 3243.

Cases referred to :

Bailey v. Pye, 3208, 3240.

Quinn v. Leatham, 3208, 3242, 3263, 3341.

Conspiracy :

Proposed legislation, effect of on common law of, discussed, 3205.

Quinn v. Leatham as to, discussed, 3208, 3242, 3263, 3341.

Employers struck against, aid rendered to by means of general lock-out, question as to, 3427.

Employers' Parliamentary Council

Constitution and objects of, 3353.
Rules of, 3356.

Labour Protection Association :

Constitution and objects of, 3208, 3360, 3416.
"Policemen" of, 3404.

Non-Unionists :

Interference with the employment of, 3362, 3396.
Should be prohibited, 3252, 3439.

Peaceful Persuasion :

Contrasted with picketing for purpose of information, 3209.
Leads to intimidation, 3208, 3209, 3403
Bailey v. Pye an instance of, 3208, 3240.

Picketing :

Abolition of, suggested, 3402.
Communicating information and peaceful persuasion in, contrasted, 3209.
For purposes of information, unnecessary, 3410.
Police protection in, insufficient, 3361.
Proposed legislation as to, would abrogate law of nuisance, 3208.

Proposed Legislation re Trade Unions, objections to, 3208.

Qualifications of, 3206.**Strikes :**

Conduct of, effect of recent decisions on, 3437.
Magistrates' action in case of, 3208, 3419.
Police conduct during, 3360, 3417.
Sympathetic strikes should be illegal, 3426.

Taff Vale Case, decision in, should be maintained. 3237.

Trade Unions :

Advantages of, with certain restrictions, 3366.
Funds, liability should be maintained, 3208, 3237.
Payments to men not to work for a certain employer, should be illegal, 3268.
Proportion of workmen belonging to, 3450.

MONTGOMERY, H. G., Honorary Secretary to the Institute of Clayworkers. (See Questions 5172-5180.)**Institute of Clayworkers :**

Views of members of, on proposed legislation, 5173.

Picketing :

Peaceful persuasion in, impossible, 5173

Proposed Legislation re Trade Unions, views as to. 5173, 5177.

Qualifications of, 5172, 5173.

NESBITT, D. M., President and Official Representative of the National Association of Master Heating and Domestic Engineers. (*See Questions 5163-5171.*)

Actions for interfering with business or contracts :

Sir C. Dilke's proposed restriction of, objected to, 5165.

Conspiracy, Law of :

Proposed amendment of, disapproved, 5165.

Picketing :

Law as at present relating to, satisfactory, 5165.

"Peaceful persuasion" in, objected to, 5165.

Proposed Legislation re Trade Unions, objections to, 5165.

Qualifications of, 5163.

Strikes :

Demarcation of work as a cause of, 5165.

Legal and illegal strikes, discussion as to, 5166.

Trade Unions :

Practices of, against which employers need protection, 5165.

NEWMAN, EDWARD, North Sea and Channel Pilot and Rigger. (*See Questions 3668-3716.*)

Free Labour Association :

Position of, comments on, 3710.

Non-Unionists :

Employers' carelessness as to charges made against, by unionists, 3671, 3704.

Intimidation and interference in work, by unionists, 3671, 3698.

Nature of arrangement between free labour employer and his men, 3682.

Proposed Legislation re Trade Unions :

Objections to, 3671.

Qualifications of, 3668.

Royal Commission on Labour 1891-4 :

Evidence of witness before, as to free labour, 3713.

NOBLE, SIR ANDREW, Bart., K.C.B., Chairman of Sir W. Armstrong, Whitworth, & Co., and Official representative of the Engineering Employers' Federation (*See Questions 2408-2604.*)

Black Lists :

Employers and workmen in relation to issue of, 2436, 2554.

Cases referred to by witness, *see* Quinn v. Leatham and Taff Vale Case.

Collective Bargaining, principle of acknowledged in agreements between Employers' Federation and Trade Unions, 2410 (*page 161*).

Conciliation :

Legislation not necessary for, 2423.

Methods of promoting, 2410 (*page 161*), 2522, 2597.

Conspiracy, when deemed illegal, 2492, 2508.

Documents handed in :

Engineering Employers' Federation, extracts from the constitution and conditions of, 2411.

North East Coast Engineering Trades Employers' Association—Synopsis of demarcation cases, October, 1903, 2411.

NOBLE, Sir Andrew, Baronet, K.C.B.—cont.

Engineering Trades Employers' Federation :

Agreements between Employers and Trade for the settlement of trade disputes, 2410 (*page 161*), 2423, 2522, 2570, 2597.

Aid rendered by, to members struck against, 2458, 2568, 2621.

Constitution of, 2410.

List of men on strike issued by, 2436, 2554.

Relations between Federation and workmen, 2530, 2600.

Rules of, 2433, 2434.

Non-Unionists :

Employers' attitude towards, 2476.

Trade Union attitude towards, 2410 (*page 161*), 2480, 2547, 2587.

Picketing :

Effect of on workmen, 2410 (*page 160*).

Effect of recent decisions on, 2410 (*page 160*).

Peaceful persuasion in, deemed impossible, 2410 (*page 160*).

Proposed Legislation re Trade Unions, views as to, 2409.

Liability and status of Trade Unions, 2410 (*page 161*).

Picketing, proposals as to, 2410 (*page 159*).

Qualifications of, 2408.

Quinn v. Leatham (1901, A.C. 495.)

Decision in, should be maintained, 2410 (*page 162*), 2420, 2520, 2521.

Effect of, on trade disputes, 2410 (*page 160*).

Opinion of Lord Lindley in, cited, 2410 (*page 160*), 2520.

Refusal to work or employ :

Discussion as to, 2533.

Strikes :

Announcement of, if a threat, should be prevented by law, 2454.

Conspiracy to get men to strike, when deemed illegal, 2492.

Demarcation of work as a cause of, 2411, 2533, 2590, 2597.

Settlement of, by conciliation, 2597.

Taff Vale case (1901, A.C. 426.)

Conduct of trade disputes, effect of on, 2410 (*pages 160, 161.*)

Decision in, should be maintained, 2410 (*page 163*), 2420, 2520, 2521.

Opinion of Lord Macnaghten in, cited, 2410 (*page 161*).

Trades Disputes :

Prevention of, agreements as to, 2410, 2423, 2522, 2570, 2597.

Trade Unions :

Attitude of Employers towards—equal treatment of Unionists and Non-unionists, 2534.

Liability of, views as to, 2410 (*page 161*).

Status of: views of witness as to incorporation, 2410 (*page 161*), 2574.

OWENS, SIR CHARLES JOHN, General Manager of the London and South Western Railway Company, and an Official Representative of the Railway Companies' Association. (*See Questions 4795-4897.*)

Conspiracy :

Alteration of law as to, objections to, 4815.

Evidence of Sir A. Noble, agreement of witness with, 4829, 4890.

Picketing :

Abolition of, suggested, 4834.

Mr. Paulton's Bill as to, would legalise attendance on private premises for, 4805, 4841.

"Peacefully": communicating information or persuading impossible, 4814, 4818.

OWENS, Sir Charles John—cont.

Proposed Legislation re Trade Unions, views as to, 4801, 4834.

Qualifications of, 4795.

Railway Companies :

Amicable relations with employees, 4798.
Long contracts with employees disapproved, 4885.
Sufficiently protected against breach of contract by employees, 4831, 4897.

Railway Companies' Association :

Interests represented by, 4797.

Shipowners, liability of, limitation of, 4867.

Strikes :

At Southampton Docks (1890), particulars as to, 4818.

Taff Vale Case, decision should remain, 4855.

Trade Unions :**Funds :**

Liability of, should be maintained, 4816, 4855, 4891.
Separation of, approved, 4817.
Liability, same as that of other Corporations, advocated, 4816, 4857, 4891.
Shipowners, limitation of liability, question as to, 4867.

PLEWS, HENRY, General Manager of the Great Northern (Ireland) Railway. (See Questions 5181-5373.)

Amalgamated Society of Railway Servants :

General strike on Irish Railways threatened by, 5183 (p. 293, col. 1), 5203.

Conspiracy and Protection of Property Act, 1875 :

Extension of Section 4 of, to Railway Companies suggested, 5183 (p. 294, col. 1), 5311.

Cork, Bandon and South Coast Railway :

Strike on, particulars as to, 5183 (p. 293, col. 1), 5207.

Great Northern (Ireland) Railway Company :

Deal directly with staff, 5183 (p. 293, col. 1), 5193, 5324, 5371.
Strikes, particulars of, 5183 (p. 292a, and p. 293, col. 1).

Picketing :

Attendance to "obtain or communicate information" not objected to, 5269.
Peaceful persuasion in, considered impossible, 5183 (p. 293, col. 2), 5265, 5320.
Proposed Legislation as to, objections to, 5183 (p. 293, col. 2), 5265, 5320.

Proposed Legislation re Trade Unions, objections to, 5183, 5265, 5320, 5370.

Qualifications of, 5181-5183.

Strikes :

Legality of, views as to, 5236, 5341.
Police protection in, how far effectual, 5256.

Trade Unions :**Funds :**

Liability of, should be maintained, 5183 (p. 294, col. 1), 5370.
Separation of suggested, 5183 (p. 294, col. 1), 5275.
Great Northern (Ireland) Railway Company, attitude towards, 5183 (page 293), 5207.
Proportion of railway employees in Ireland who are members of, 5367.

RHODES, FREDERICK PARKER, Solicitor, Secretary to the South Yorkshire Coalowners' Association. (See Questions 2174-2360.)

Black Lists :

Not issued by South Yorkshire Coalowners' Association, 2185.

Cases referred to :

Allen v. Flood, 2273, 2279.
Quinn v. Leatham (1901 A.C. 495), 2189, 2225, 2236, 2241, 2251, 2256.

Conciliation not always successful owing to difficulty in enforcing awards, 2338.

Conspiracy :

Civil and criminal liability for, discussed, 2202.
Discretion of Judge and Jury as to conspiracy to injure, views as to, 2189.
Employers' and employees' position as to, contrasted, 2296.

Conspiracy and Protection of Property Act, 1875 :

Exemption from criminal liability under, approved, 2208, 2223, 2236, 2242.
Lord Cairns on the object of, 2203.
Picketing, intention of, as to, 2353.
Section 7, Qualifying Clause, views as to real intention of as regards picketing, and desirability of deleting the clause, 2354.

Law should be equal for employer and employed, 2188.

Picketing :

Abolition of, approved, 2358, 2359.
Intention of Conspiracy Act, 1875, as to, 2353.
Intimidation results from, 2352, 2356.

Qualifications of, 2174.

South Yorkshire Coalowners' Association :

Aid rendered by, to members struck against, 2182.
Black lists not issued by, 2185.
Constitution of, 2179.
Joint Committee of mine-owners and miners' representatives, for settlement of disputes, 2338.

Strikes :

Conspiracy to injure in, 2189.
Legal if properly conducted, 2216.
Legality of conduct of, should be determined by Court, 2188.
Non-Unionists, strikes against, legality of, 2252.
Petty strikes increase in number of with increased strength of Trade Unions, 2341.
Sympathetic strikes, how far justifiable, 2188, 2189.
Legality of, discussed, 2233, 2255.
Threat to strike not intimidation, 2292.
Trade Unions should be allowed to advise men to strike, 2285.

Trade Disputes :

Settlement of in Yorkshire, 2338.

Trade Unions :

Advising men to strike should be legal, 2285.
Funds, liability of should be maintained, 2344.
Incorporation of, under restrictions desirable, 2346-2351.
Settlement of disputes by Joint Committee of Employers and Union representatives, 2338.

RITSON, GEORGE, Labour Superintendent, British Westinghouse Company, Limited, and late District Secretary of the National Free Labour Association (See Questions 2954-2979.)

Non-Unionists :

Protection of, in cases of refusal to work with, views as to, 2975.

RITSON, George—cont.**Picketing :**

- Abolition of, suggested, 2959, 2979.
- Peaceful picketing, generally impossible, isolated instance of, 2975, 2959.

Proposed Legislation re Trade Unions, objections to, 2954, 2967, 2973.

Qualifications of, 2954.

Strikes :

- Hull Dock Strike, intimidation in, 2954, 2957.
- Non-Unionists, employment of, strike caused by at Huddersfield, 2975.

Taff Vale Case (1901, A.C. 426).

- Decision in, should be maintained, 2967.
- Effect of, on strikes, 2971.

Trade Unions :

- Liability should be maintained, 2954, 2967, 2974.

RUDD, JAMES, an aggrieved and discharged Trade Unionist, and a worker in the Cabinet-making trade. (See Questions 3475-3493.)

Conspiracy and Protection of Property Act, 1875.

- Section 7 of, should be placarded in factories and workshops, 3477.

Non-Unionists :

- Interference with, by Trade Unions, 3477.

Picketing :

- Peaceful persuasion in, leads to intimidation, 3477.

Proposed Legislation re Trade Unions would interfere with freedom of contract, 3477.

Qualifications of, 3475.

Strikes :

- Demarcation of work as a cause of, 3477.

SHEPHERD, WILLIAM, official representative of the National Federation of Building Trades Employers of Great Britain and Ireland, and of the London Master Builders' Association. (See Questions 1942-2023).

Agreements and Working Rules, value of, views as to, 1999.

Building Trades :

- Police protection in, difficulty of, 1948.

Conciliation, compulsory, why impracticable, 1948 (page 133).

Conciliation Boards :

- Rules of London Master Builders' Association as to, 1948 (page 133).

Conspiracy Act, 1875 :

- Section 7, qualifying clause should be repealed, 1948 (page 133).

Document handed in—General Rules as agreed between the National Federation of Building Trade Employers of Great Britain and Ireland, the National Association of Master Plasterers and the National Association of Operative Plasterers, April 12th 1904, 1790.

Liability of Trade Unions, proposed legislation as to, views as to, 1948 (page 132).

London Master Builders' Association :

- Agreements between association and unions unenforceable at law, 2008.
- Rules of, 1999.

National Federation of Building Trade Employers of Great Britain and Ireland :

- Agreements between association and union unenforceable at law, 2008.
- Rules of, 1999.

SHEPHERD, William—cont.**Picketing :**

- Abolition of by law, approved, 1951.
- Peaceful persuasion in, views as to, 1948, 1961.
- Proposed legislation as to, criticised, 1948.

Proposed Legislation re Trade Unions, general views as to, 1948.

Qualifications of, 1942 :

Royal Commission on Trade Unions 1867-9 :

- Report of, on picketing, 1948 (page 133).

Strikes :

- Demarcation of work as a cause of, 1948 (page 132), 1973.
- Existing law as to, approved, 1948 (page 134).
- Legality of, if conducted without intimidation, 1996.
- Magistrates' jurisdiction in relation to, how exercised, 1948, 1970.
- Police protection, in, difficult, 1948.
- Recent decisions, effect of, on conduct of trade disputes, 1948 (page 134), 1952.

Taff Vale Case (1901, A.C., 426.)

- Beneficial effect of decision in, 1948, 1952

Trade Unions :

- Attitude of employers towards, 1955.
- Funds :
 - Benefit funds induce men to join unions, 1952.
 - Separation suggested, 1948 (page 134).
- Proposed legislation, *see that title*.

SOALL, GEORGE, Secretary to the National Association of Master Plasterers. (See Questions 4101-4219.)

Conspiracy :

- Law as to, should be maintained, 4102.

Documents handed in—Extracts from the Rules of the National Association of Master Plasterers, 4103.

Employers' Associations and Trade Unions, agreements and negotiations between, advantages of, 4148.

Friendly Societies Acts, application of to Trade Union Benefit Funds, advocated, 4125.

National Association of Master Plasterers :

- Aid rendered by to members struck against 4209.
- Agreement made by, with Federation of Builders and Workmen's Union, beneficial effect of, 4148, 4215.
- Apprentices, clause as to, 4175.
- Demarcation of work under, 4180.
- Foreman, position of, 4156.
- Wages, local rates, arrangements as to, 4165.
- Rule requiring member to discharge strikers, justification for, 4209.

National Association of Operative Plasterers :

- Refusal of members of, to work with Non-Unionists, alleged, 4187.
- Sanction of executive council necessary before a strike can take place, 4102, 4215.

Non-Unionists :

- Refusal to work with should be actionable, 4187, 4201.

Picketing :

- Abolition of, suggested, 4126.
- Peaceful picketing, rarity of, 4102.

Proposed Legislation re Trade Unions, objections to 4102.

Qualifications of, 4101.

SOALL, George—cont.**Strikes :**

Inducing to strike, question whether this should be illegal, 4133, 4213.
 Sympathetic strikes, 4214.
 "Working Black," Nottingham plasterers' strike as to, 4102, 4137.

Taff Vale Case (1901 A.C. 426).

Decision in, should be maintained, 4102, 4104.

Trade Unions :

Defaulting Trade Unionists, refusal to work with is not unreasonable, 4187, 4201, 4204.

Funds :

Liability should be maintained, 4105.
 Separation advocated, 4102, 4105.
 Foremen should not be compelled to belong to, 4156.
 Interference by, with employer in conduct of his business should be actionable, 4137, 4175.

Wages demands, usual procedure as to, 4192.

STODDART, FRANÇOIS, Writer, Glasgow, Secretary to the Scottish Committee and to the Glasgow Branch of the National Federation of Merchant Tailors. (See Questions 5086-5162.)

Black Lists :

Employers' and employees' position as to, contrasted, 5139.
 Placarding by sandwich men should be illegal, 5089, 5134.

Conspiracy :

Law of, should be maintained as at present—5089, 5117.

Conspiracy and Protection of Property Act, 1875, Section 7, qualifying clause, question as to whether repeal is advisable, 5113.

"Conspiracy to Injure" :

Combination to detach men from work should be illegal as, 5095.

Document handed in—Extracts from the Rules and Report and Balance Sheet (1903) of the Scottish Operative Tailors' and Tailoresses' Association, 5147.

Middlemass & Co. v. the Scottish Operative Tailors Society, 5135.

National Federation of Master Tailors :

Aid rendered by to members struck against, 5091.

Non-Unionists, refusal to work with, should not be illegal. 5128.

Picketing :

By numbers causes a nuisance and results in intimidation, 5089, 5113, 5161.
 Peaceful persuasion leads to intimidation, 5089.

Proposed Legislation re Trade Unions, objections to, 5089, 5117.

Qualification of : 5086.

Quinn v. Leathem, decision in, should be maintained, 5131.

Scottish Operative Tailors' and Tailoresses' Association :

Boycotting by, 5145.
 Placarding by sandwich men, instance of, 5089 (page 286, col. 2), 5134.
 Rules, 5147.

Strikes :

Intimidation in, 5089.

Trade Union Funds :

Liability of, should be maintained, 5089.

TAYLOR, SAMUEL, President of the London Master Carmen and Cartage Contractors' Association. (See Questions 2112-2173.)

London Master Carmen and Cartage Contractors' Association :

Aid rendered by. to members struck against, 2128.
 Constitution of, 2126.

TAYLOR, Samuel—cont.**Picketing :**

Abolition of, suggested, 2162.
 Intimidation in, what amounts to, 2146.
 Peaceful persuasion leads to intimidation, 2116, 2121, 2139, 2171, 2173.
 Proposed legislation to extend, objections to, 2114, 2139, 2170.

Proposed Legislation re Trade Unions, general views as to, 2114, 2163.

Qualifications of, 2112.

Trade Unions :

Attitude of Employers towards—no question asked as to membership, 2131, 2133.
 Funds, liability of, should be maintained, 2163.
 Treating as Companies or Corporations for all purposes, no objection to, 2166.

THOMSON, ANDREW, Junr., Ex-Chairman and Official Representative of the Scottish Furniture Manufacturers' Association. (See Questions 2980-3017.)

Document handed in—Extracts from the Rules of the Scottish Furniture Manufacturers Association, and Conditions of employment as fixed by the Execution Committee, 3017.

Non-Unionists, attitude of Trade Unionists towards, 2982.

Protection of Non-Unionists against, question as to, 3013.

Persuasion to cease work should be illegal, 2998.

Peaceful Persuasion :

Considered impossible, 2982.
 Restrictions suggested in any legislation as to, 2982, 3013.

Picketing :

Abolition of, suggested, 2992, 3010.
 Proposed legislation as to, objections to, 2982, 3003, 3014.

Proposed Legislation re Trade Unions, views as to, 2982, 3003, 3014.

Qualifications of, 2980-2982.

Royal Commission on Labour 1891-4, Report of as to moral compulsion and pressure exerted by Trade Unions, 3012.

Strikes :

Non-Unionists, strikes against, views as to whether they should be illegal, 2999, 3008.

Trade Unions :

Funds, liability for damages advocated, 2982.
 Law as to, at present sufficiently protects employers, 2982.

TILLING, RICHARD S., Managing Director of Thomas Tilling, Ltd., Jobmasters, Omnibus and Cab Proprietors. (See Questions 2361-2407.)

Non-Unionists :

Demand by Union for dismissal of, should be illegal, 2369, 2390.
 Refusal of Unionists to work with, views as to, 2371.

Picketing :

Peaceful persuasion in, impossible. 2363.

Qualifications of, 2361.

Strikes :

Discretion of Court as to legality of conduct of, approved, 2386.
 Trade Unions, advising men to strike, extent to which it should be lawful, 2382.

TILLING, Richard S.—cont.**Trade Unions:**

Attitude of employers towards, 2373, 2375.
 Attitude of, in promoting strikes, 2406.
 Funds, liability of, should be maintained, 2400.

WALLIS, W. F., Member of the National Federation of Building Trades Employers of Great Britain and Ireland, and President of the Southern Counties Federation, (*See* Questions 1924–1941).

Picketing:

By numbers, objected to, 1927, 1937.
 Law as at present relating to, approved, 1929.
 Peaceful persuasion, objections to, 1927, 1931, 1938.

Proposed Legislation re Trade Unions, views as to, 1927.

Qualifications of, 1924.

Trade Union Funds:

Liability of, should be maintained, 1932.

WARBURTON, THOMAS, Vice-President and an Official Representative of the Federation of Master Bleachers and Dyers, and Managing Director of the Bleachers' Association, Limited. (*See* Questions 5014–5085.)

Conspiracy:

Law of, should be maintained, 5019, 5025.

Conspiracy and Protection of Property Act, 1875, Section 7, repeal of, views as to, 5021.

Document handed in—Rules of the Federation of Master Bleachers and Dyers, 5056.

Federation of Master Bleachers and Dyers:

Aid rendered by to members struck against, 5054.
 Rules of, 5054, 5065.

Picketing:

By numbers for any purpose, objected to, 5020, 5044, 5064.
 "Peaceful" persuasion in, objected to, 5019, 5044.
 Present law as to, should be maintained, 5019.

Proposed Legislation re Trade Unions, objections to, 5019.

Qualifications of, 5014, 5017.

Strikes:

Intimidation in instance of, 5019.
 Non-Unionists, strikes against, question as to, 5075.
 Payment of fines by members, strikes for not objected to, 5072, 5079.

Trade Unions:

Existence of, approved, 5046.
Funds:
 For benefit purposes should not be applicable for strikes, 5019, 5029.
 Separation of, should be made by law, 5047.
 Recent decisions as to, should be maintained, 5019.

WATSON, EDWARD, Managing Director of the City of Dublin Steam Packet Company, a Director of the British and Irish Steam Packet Company and a member of the Dublin Junction Railways Committee and of the Dublin Local Marine Board. (*See* Questions 3808–3910).

Act of Parliament referred to—Master and Servants Act, 3851.

Conspiracy:

Law as to, should be maintained, 3809.

WATSON, Edward—cont.

Law should be the same for employer and employed, 3877, 3898.

Lyons v. Wilkins (1899, Ch. 255).

Decision in, should be maintained, 3809, 3843.

Merchant Shipping Act, 1854:

Liability for acts of agents limited under, 3887.

Non-Unionists:

Interference with, should be prohibited, 3824, 3863.

Strikes against, views as to, 3809, 3834.

Picketing:

Abolition of, suggested, 3848.
 Peaceful persuasion in, impossible, 3809.

Proposed Legislation re Trade Unions, objections to, 3809.

Qualifications of, 3808, 3809.

Strikes:

London Docks, particulars of, 3809, 3853.
 Magistrates' action as to, satisfactory, 3855.
 Non-Unionists, strikes or threats to strike against, Question as to whether should be illegal, 3809, 3824.
 Police protection in, limited, 3809, 3853.
 Wages question, a legitimate cause of, 3812, 3833.

Taff Vale Case (1901, A.C. 426).

Decision in, salutary effect of, 3809, 3856.

Trade Unions:

Funds, liability of, should be maintained, 3858.
 Law as to; at present clear, 3900.
 Liability of, should be similar to that of other combinations, 3809, 3874, 3897.
 Mr. S. Wood's Statement as to grievances of, criticised, 3809, 3842.

WATT, H. B., *see* Nesbit, D. M.

WHITE, ALEXANDER G., Official Representative of the Lancashire Cheshire, and North Wales Building Trades Employers' Federation, (*See* Questions 2024–2111.)

Acts of Parliament referring to Trade Unions, Codification of, and simplification of procedure, suggested, 2029, 2097.

Black Lists:

Not issued by Lancashire, Cheshire and North Wales Building Employers' Federation, 2035.

Cases:

Bulcock v. St. Anne's Master Builders' Federation (1902, T. L. R. 27), Report of, 2027 (*page* 139).

Carr v. National Amalgamated Society of House and Ship Painters (*Labour Gazette*, August, 1903, 215):

Injunction in:

Alleged breach of, 2029 (*page* 142).

Terms of, 2029 (*App. 8, page* 144).

Proposed legislation would destroy liability in similar cases, 2027 (*page* 138).

Collective Agreements:

Advantages of, 2105.

Breach of, question as to legal remedy against, 2110.

Conciliation, effect of recent decisions on, increasing tendency as to adoption of, 2104, 2105.

WHITE, Alexander G.--cont.**Conspiracy**

Law of, maintenance as at present vital, 2027, 2083.

Lancashire, Cheshire, and North Wales Building Trades Employers' Federation :

Action taken by, when strike occurs, 2030.
Black lists not issued by, 2035.

Law should be equal, for employers and employed, 2089.

Non-Unionists :

Trade union practices as to, 2027 (*page* 138), 2048.

Nuisance would be created by proposed legislation, 2029 (*page* 142).

Picketing :

Peaceful persuasion in, leads to intimidation, 2027 (App. Nos. 6 and 7, p. 141), 2029.
Proposed legislation as to,
Objections to, 2027 (*page* 137).

Proposed Legislation : re Trade Unions :

Breach of contract, restriction of actions for, under Sir C. Dilke's Bill, 2027 (*page* 138).
Conspiracy, Amendment of law as to, 2027 (*pages* 137 and 138).
Liability of trade unions—proposed Bills contrasted, 2027 (*page* 138).
Picketing, proposals as to peaceful conduct of, 2027 (*page* 137).

Qualifications of, 2024.**Strikes :**

Effect of recent decisions on conduct of trade disputes, 2104.
With notice, is not intimidation, 2090.

Trade Unions

Amalgamation, increased power resulting from, 2027.

- Collective agreements and working rules of, 2105.

Funds :

Existing law as to, satisfactory, 2027.
Liability of, views as to, 2027 (*page* 138).
Remedy against, preferable to criminal proceedings, 2027 (*page* 138).
Separation of sick and benefit funds possibly justified, 2027 (*page* 138).
Strike and management funds should be liable, 2027 (*page* 138).
Use of, for bringing actions against employers, 2027 (*page* 138).
Law as to, codification of, and simplification of procedure suggested, 2029, 2097.
Recent decisions as to, effect of, 2104.

WRIGHT, JAMES, Official Representative of the Midland Centre of the National Federation of Building Trade Employers of Great Britain and Ireland. (See Questions 3057-3205.)**National Federation of Building Trade Employers of Great Britain and Ireland :**

Aid rendered by, to members differs from that of Workmen's Unions, 3195.

Non-Unionists :

Attitude of Trade Unions towards, 3166.
Strikes against, 3060, 3190

Peaceful Persuasion leads to intimidation, 3061, 3070.

Picketing :

Abolition of, suggested, 3061.

WRIGHT, James—cont.

Proposed Legislation re Trade Unions, objections to, 3060.

Qualifications of, 3057.

Strikes :

Accommodation refused to "Blacklegs" during, 3129.

Advice or inducing to strike, question whether it ought to be considered illegal, 3090.

Payment of money on condition that man refuses to work for certain employer, question as to, 3174.

Apprentices as a cause of, 3060 (*pages* 195, 196).

Classification of, according to objects of, discussion as to, 3074, 3149.

Demarcation of work as a cause of, 3060 (*page* 195).

Discretion of Courts as to legality or illegality of, views as to, 3137.

Disputes between members of Trade Unions, as a cause of, 3060 (*page* 196).

Non-Unionists, employment of, as a cause of, 3060, 3190.

Refusal to work should not be made illegal, 3074.

Refusal to work unless some man is dismissed, question whether this should be illegal, 3092.

Taff Vale Case (1901. A G. 426).

Decision in, effect of on trade disputes, decreased number of strikes, etc., 3060, 3065.

Trade Unions :

Funds, liability of, should be maintained, 3066.
Law as to, ambiguity of, 3142.

YOUNG, JOHN, formerly President of the Newcastle and District Operative Plasterers' Association. (See Questions 3494-3601.)**Picketing :**

Abolition of, suggested, 3495, 3531.
Peaceful persuasion in, impossible, 3495, 3530.

Proposed Legislation re Trade Unions, objections to, 3495, 3531, 3536, 3558.

Qualifications of, 3494, 3526, 3529.

Strikes :

Demarcation of work as a cause of, 3500.

Disputes in which employers are not concerned, 3512.

Right to strike, without breach of contract, 3495.

Taff Vale Case (1901 A.C. 426).

Decision in, should be maintained, 3536, 3558.

Trade Disputes :

Judicial tribunal specially to deal with, suggested, 3495 (*page* 212).

Trade Unions :

Advantages of, for making agreements with employers, etc., 3582

Disputes between, as a cause of strikes, 3499.

Funds :

Audit of, should be compelled by law, 3555.
Liability of, should be maintained, 3536, 3558.

Use of, for other than trade and benevolent purposes should be illegal, 3495, 3552, 3594.

Parliamentary purposes, use for, 3495, 3552.

Internal management of, views as to, 3541.

Working rules of, with employers, should be legally binding, 3565.

APPENDICES

TO THE

MINUTES OF EVIDENCE

TAKEN BEFORE THE

ROYAL COMMISSION

ON

TRADE DISPUTES & TRADE COMBINATIONS.

CONTENTS.

	PAGE
INDEX TO APPENDICES - - - - -	iii
LIST OF APPENDICES - - - - -	iv
APPENDICES - - - - -	1

ROYAL COMMISSION ON TRADES DISPUTES AND TRADE COMBINATIONS.

INDEX TO APPENDICES.

Collieries :

- Employers' Associations, Rules of, 78, 79, 80.
- Output of Coal and number of Persons employed at Collieries in the South Wales Coalfield and in the United Kingdom for the Seven Years 1897-1903, *page 45.*
- Sliding Scale Agreements, *page 38.*
- Strikes, *see that title.*

Demarcation Cases (1903) synopsis of (North-East Coast Engineering Trade Employers' Association), *page 74.*

Employers' Associations :

Agreements with Trade Unions :

- General Rules as agreed between National Federation of Building Trade Employers of Great Britain and Ireland. National Association of Master Plasterers, and National Association of Operative Plasterers, *pages 81 and 87.*

Sliding Scale Agreements, *page 38.*

Mining Association of Great Britain, Letter re Trade Unions and Trade Disputes Bill 1904, *page 72.*

North-East Coast Engineering Trade Employers' Association, Synopsis of Demarcation Cases (1903), *page 74.*

Number of, in the different Trades, General Summary for 1902, *page 10.*

Rules :

- Durham Coal-owners' Association, *page 79.*
- Engineering Employers' Federation, *page 84.*
- Federation of Bleachers and Dyers, *page 88.*
- Lancashire, Cheshire, and North Wales Building Trades Employers' Federation, *page 82.*
- London Master Tailors' Association, *page 85.*
- Monmouthshire and South Wales Coal-owners' Association, *page 80.*
- National Association of Master Plasterers, *pages 86, 87.*

National Federation of Building Trade Employers, National Association of Master Plasterers and National Association of Operative Plasterers, General Rules as agreed between, *pages 81, 87.*

National Federation of Merchant Tailors, *page 84.*

North-East Coast Ship Repairers' Association, *page 88.*

Northumberland Coal-owners' Associations, *page 78.*

Preston Building Trades Employers' Association, *page 83.*

Scottish Furniture Manufacturers' Association, *page 85.*

Non-Unionists' Association, Rules of, *page 87.*

Proposed Legislation re Trade Unions :

Copies of Bills :

- Dilke, Sir Charles :
Bill of 1903, *page 7.*
Bill of 1904, *page 8.*
- Faulton, Mr., Bill of 1904, *page 7.*
- Shackleton, Mr., Bill of 1903, *page 7.*
- Whittaker, Mr., Bills of 1905, *page 93.*

Letters re :

- Mining Association of Great Britain, *page 72.*
- Trades Union Congress Parliamentary Committee, *page 9.*

Sliding Scale Agreements, extract from "South Wales Coal Annual" re, *page 38.*

Strikes and Lock-Outs :

Collieries : Returns as to South Wales and Monmouthshire Coal-field, 1894-1902 :

- All causes, strikes from, *page 42.*
- Non-unionists, strikes against, *page 43.*

Demarcation cases, Synopsis of (1903)—North-east Coast Engineering Trades Employers' Association, *page 74.*

Strikes and Lock-outs—cont.

Number of workpeople directly affected by Trade disputes, classified by trades, causes and results, mean of 10 years, 1894-1903, *page 5.*

Number of workpeople directly and indirectly affected by trade disputes, and aggregate duration in working days in each year, 1894-1903, *page 5.*

Statement summarising statistics of, in United Kingdom, in each of 10 years, 1893-1902, *page 4.*

Taff Vale Strike, *see that title.*

Taff Vale Case :

Abstract of facts of assaults, Acts of intimidation, etc., committed by pickets, *page 59.*

Summing up by Mr Justice Wills, *page 62.*

Taff Vale Railway Company :

Conditions of Service—Rates of pay, hours, etc. (as in force in August, 1900, prior to the strike), table showing, *page 48.*

Pensions, Gratuities, etc. :

Gratuities to officers and staff on leaving service, and to widows and relatives of deceased members of staff, amounts granted to men away ill, and for artificial limbs, *page 56.*

Pensions :

Amount of pensions paid by the Company from January 1st, 1893, to December 31st, 1903, *page 55.*

Number of pensioners and total amount of pensions at June 15th, 1904, *page 54.*

Statement re Pension allowances for wages paid staff, *page 53.*

Railway Clearing House System Superannuation Fund, amount paid by Taff Vale Railway Company from January 1st, 1893, to December 31st, 1903, *page 55.*

Taff Vale Strike :

Programme of demands in 1899, *page 58.*

"Railway Review," letter of September 1st, 1899, inciting to discontent, *page 57.*

Trade Unions :

Agreements with Employers' Associations, *see title*
Employers' Associations, *subheading* Agreements.
Amalgamated Society of Engineers, Rules of, *page 32.*

Amalgamated Society of Railway Servants :

Programme of demands in 1899, *page 58.*

Report and financial statements for 1903, *page 11.*

Rules, *page 20.*

Expenditure of (1893-1902), analysis of, showing expenditure on disputes, working expenses, and each class of friendly benefit, by 100 principal Trade Unions, and mean for period, *page 6.*

Friendly Society of Ironfounders of England, Ireland and Wales, Rules of, *page 34.*

Friendly Society of Operative Stone-masons of England and Wales, Rules of, *page 33.*

Law as to :

Proposed legislation re, *see title* Proposed Legislation, etc.

Trades Union Congress, 1902 on, *précis* of "Times" Report on September 5th, 1902, *page 8.*

Membership of Trade Unions :

In each year 1893-1902, and mean for period classified by trades, *page 6.*

In 1902, statement showing, *page 1.*

Scottish Operative Tailors and Tailoresses' Association—Extracts from Rules and Report and Balance-sheet, *page 89.*

Status of Trade Unions, statement as to by Mr. Parker Rhodes, *page 93.*

Webb, Mr. & Mrs. Sidney, Extract from "Industrial Democracy"—"A Bill entitled an Act to amend the Law relating to Trade Disputes," *page 8.*

THE ROYAL COMMISSION ON TRADE DISPUTES AND TRADE COMBINATIONS.

APPENDICES.

FIRST DAY.

Documents handed in by Mr. G. R. Askwith, Barrister-at-Law, and Counsel to H.M. Commissioners of Works and Public Buildings, Arbitrator and Conciliator to the Board of Trade.

No.	Description of Document.	Page.	Handed in at Question.
1	Statement showing the membership of Trade Unions in 1902	1	12
2	Statement summarising the Statistics of Strikes and Lock-outs in the United Kingdom in each of the Ten Years, 1893-1902	4	12
3	Chart showing the number of workpeople directly and indirectly affected by Trade Disputes, and aggregate duration in working days in each year, 1894-1903	5	12.
4	Chart showing the number of Workpeople directly affected by Trade Disputes, classified by trades, causes, and results, mean of ten years 1894-1903	5	12
5	Chart showing membership of all Trade Unions, membership in each year 1893-1902, and mean for period classified by trades	6	12
6	Chart showing Analysis of Expenditure of Trade Unions, 1893-1902. Expenditure on disputes, working expenses, and each class of friendly benefit, by 100 principal Trade Unions for each year, and mean for period	6	12
7	Copy of Mr. Shackleton's Bill to legalise the Peaceful Conduct of Trade Disputes	7	86
8	Copy of Sir Charles Dilke's Bill to legalise the Peaceful Conduct of Trade Disputes, and to alter the Law affecting the liability of Trade Union Funds	7	86
* 9	Copy of Mr. Paulton's Bill to amend the Law relating to Trade Unions and Trade Disputes	7	86
10	Copy of Sir Charles Dilke's Bill to legalise the Peaceful Conduct of Trade Disputes, and to alter the Law affecting the Liability of Trade Union Funds	8	86
11	Extract from "Industrial Democracy" by Mr. and Mrs. Sidney Webb, pp. 34-45 :- "A Bill entitled an Act to amend the Law relating to Trade Disputes"	8	88
12	Précis of <i>The Times</i> Report, September 5th, 1902, page 10, respecting the attitude of the Trade Unions with regard to the existing state of the Law	8	88
13	Copy of the letter addressed to Members of Parliament by the Trades Union Congress Parliamentary Committee, dated 5th May, 1903, re Trade Disputes Bill	9	88

THIRD DAY.

Document handed in by Mr. G. R. Askwith.

1	Statement showing Associations of Employers—General Summary for 1902	10	130a
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TENTH DAY.

Documents handed in by Mr. Ammon Beasley, General Manager of the Taff Vale Railway Company.

1	Extract from the Report and Financial Statements for 1903 of the Amalgamated Society of Railway Servants of England, Ireland, Scotland, and Wales	11	967 and 978
2	Extract from the Rules of the Amalgamated Society of Railway Servants of England, Ireland, Scotland, and Wales	20	971
3	Extract from the Rules of the Amalgamated Society of Engineers	32	995
4	Extract from the Rules of the Friendly Society of Operative Stone Masons of England and Wales	33	995
5	Extract from the Rules of the Friendly Society of Ironfounders of England, Ireland, and Wales	34	995
6	Extract from the South Wales Coal Annual, 1903, re Sliding Scale Agreements	38	1000
7	Return of Strikes from all causes at Collieries in the South Wales and Monmouthshire Coalfield, 1894 to 1902 inclusive	42	1001
8	Return of Strikes in the South Wales and Monmouthshire Coalfield entered upon with the object of compelling the non-Union men to join the Miners' Union, 1894 to 1902 inclusive	43	1010

* For Mr. Whittaker's Trades Unions and Trades Disputes Bill, which was read a second time in the House of Commons on the 10th March, 1905, see page 93.

ELEVENTH DAY.

Document handed in by Mr. Ammon Beasley, General Manager of the Taff Vale Railway Company.

No.	Description of Document.	Page.	Handed in at Question.
1	Comparative Statement of the Output of Coal and Number of Persons employed at the Collieries in the South Wales Coalfield and the United Kingdom for the seven years 1897 to 1903 inclusive	45	1019

TWELFTH DAY.

Documents handed in by Mr. Ammon Beasley, General Manager of the Taff Vale Railway Company.

1	Table showing the Rates of Pay, Hours, and other Conditions of Service of men of the several Grades specified on the undermentioned Railways (as in force in August, 1900, prior to the Strike)	48	1098
2	Statement <i>re</i> Pension Allowances for Wages paid Staff on the Taff Vale Railway	53	1099
3	Statement showing the Number of Pensioners and Total Amount of Pensions at 15th June, 1904, on the Taff Vale Railway	54	1100
4	Statement showing the Amount paid to the Railway Clearing House System Superannuation Fund by the Taff Vale Railway Company from January 1st, 1893, to December 31st, 1903	55	1101
5	Statement showing the Amount of Pensions paid by the Taff Vale Railway Company from January 1st, 1893, to December 31st, 1903	55	1101
6	Statement showing the Amount paid by the Taff Vale Railway Company since 1893 in the form of Gratuities to Officers and Staff on leaving the Service, and to Widows and Relatives of deceased members of the Staff, including also the Amounts granted to men away ill, and for artificial limbs, etc.	56	1101
7	Extract from the "Railway Review," September 1st, 1899—An open letter to Taff Vale Railwaymen	57	1105
8	Taff Vale Railway—Railwaymen's Movement, 1899—Programme formulated by Mr. Richard Bell, M.P., General Secretary, Amalgamated Society of Railway Servants	58	1127

THIRTEENTH DAY.

Documents handed in by Mr. Ammon Beasley, General Manager of the Taff Vale Railway Company.

1	<i>The Taff Vale Railway Company v. The Amalgamated Society of Railway Servants—Abstract of Facts of Assaults, Acts of Intimidation, etc., committed by Pickets</i>	59	1149
2	<i>The Taff Vale Railway Company v. The Amalgamated Society of Railway Servants—Summing-up of Mr. Justice Wills</i>	62	1165

SIXTEENTH DAY.

Documents sent in by Mr. R. Guthrie, Secretary to the Coal Owners' Association of Northumberland and Durham.

1	Extracts from the Rules of the Northumberland Coal Owners' Association	78	1406
2	Extracts from the Rules of the Durham Coal Owners' Association	79	1406

SEVENTEENTH DAY.

Document handed in by Mr. Robert Baird, Secretary to the Lanarkshire Coal Masters' Association, and to the Scotch Coal Trade Conciliation Board, and General Manager and Secretary to the Scotch Mine Owners' Defence and Mutual Insurance Association, Limited.

1	Copy of letter issued by the Mining Association of Great Britain <i>re</i> Trade Unions and Trade Disputes Bill, 1904	72	1582
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EIGHTEENTH DAY.

Documents handed in by Mr. Charles Kenshole, Solicitor to the Monmouthshire and South Wales Coal Owners' Association.

1	Extracts from the Deed of Arrangement (with amendments) of the Monmouthshire and South Wales Coal Owners' Association	80	1790
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NINETEENTH DAY.

Documents handed in by Mr. William Shepherd, Official Representative of the National Federation of Building Trade Employers of Great Britain and Ireland, and the London Master Builders' Association.

No.	Description of Documents.	Page.	Handed in at Question.
1	General Rules as agreed between The National Federation of Building Trade Employers of Great Britain and Ireland, The National Association of Master Plasterers, and the National Association of Operative Plasterers, April 12th, 1904	81	1790

Documents sent in by Mr. Alexander G. White, Official Representative of the Lancashire, Cheshire and North Wales Building Trades Employers' Federation.

1	Extracts from the Revised Rules of the Lancashire, Cheshire and North Wales Building Trades Employers' Federation	82	2033
2	Extracts from the Revised Rules of the Preston Building Trades Employers' Association	83	2033

TWENTIETH DAY.

	Statement sent in by Mr. Parker Rhodes on the improvement of the legal status of Trade Unions	93	2350
--	---	----	------

TWENTY-FIRST DAY.

Documents handed in by Sir Andrew Noble, Bart, K.C.B., Chairman of Sir W. Armstrong Whitworth and Company, and Official Representative of the Engineering Employers' Federation.

1	Extracts from the Constitution and Conditions of the Engineering Employers' Federation	84	2434
1a	North East Coast Engineering Trades Employers' Association—Synopsis of Demarcation Cases, October, 1903	74	2411

Documents handed in by Mr. J. Allen, Member of the Executive of the National Federation of Merchant Tailors, and Editor of the "Master Tailor and Cutters' Gazette."

2	Extracts from the Constitution and Rules of the National Federation of Merchant Tailors	84	2703a
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Documents handed in by Mr. C. Corelli, Secretary of the Association of London Master Tailors.

3	Extracts from the Constitution and Rules of the London Master Tailors	85	2716
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TWENTY-SECOND DAY.

Documents handed in by Mr. Andrew Thomson, Junior Ex-Chairman and Official Representative of the Scottish Furniture Manufacturers' Association.

1	Extracts from the Rules of the Scottish Furniture Manufacturers' Association, and Conditions of Employment as fixed by the Executive Committee.	85	3017b
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TWENTY-FOURTH DAY.

Documents handed in by Mr. G. Soall, Secretary of the National Association of Master Plasterers.

1	Extracts from the Rules of the National Association of Master Plasterers	86	4103
2	General Rules as agreed between the National Federation of Building Trade Employers of Great Britain and Ireland, The National Association of Master Plasterers, and the National Association of Operative Plasterers, April 12th, 1904	87	4157

Documents handed in by Mr. Joseph Cardwell, Secretary of the Association of Non-Unionists.

3	Extracts from the Rules of the Association of Non-Unionists	87	4278
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TWENTY-FIFTH DAY.

Document sent in by Mr. M. C. James, Managing Director of the Mercantile Dry Dock, Jarrow-on-Tyne, and Chairman and Official Representative of the North East Coast Ship Repairers' Association.

1	Extracts from the Rules of the North East Coast Ship Repairers' Association	88	4678
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TWENTY-SIXTH DAY.

Documents handed in by Messrs. Thomas Warburton and F. B. Knott, Chairman and Secretary respectively, and Official Representatives of the Federation of Bleachers and Dyers.

No.	Description of Document.	Page.	Handed in at Question.
1	Extracts from the Rules of the Federation of Bleachers and Dyers	88	5056

Documents handed in by Mr. Francis Stoddart, Writer, Glasgow, Secretary to the Scottish Committee, and to the Glasgow Branch of the National Federation of Merchant Tailors.

2	Extracts from the Rules and Report and Balance Sheet, for the year ending 31st December, 1903, of the Scottish Operative Tailors and Tailoresses' Association	89	5147
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ROYAL COMMISSION ON TRADE DISPUTES
AND TRADE COMBINATIONS.

Appendix
1st Day.
No. 1.

APPENDICES TO MINUTES OF EVIDENCE.

FIRST DAY.

1.—STATEMENT showing the MEMBERSHIP of TRADE UNIONS in 1902 *

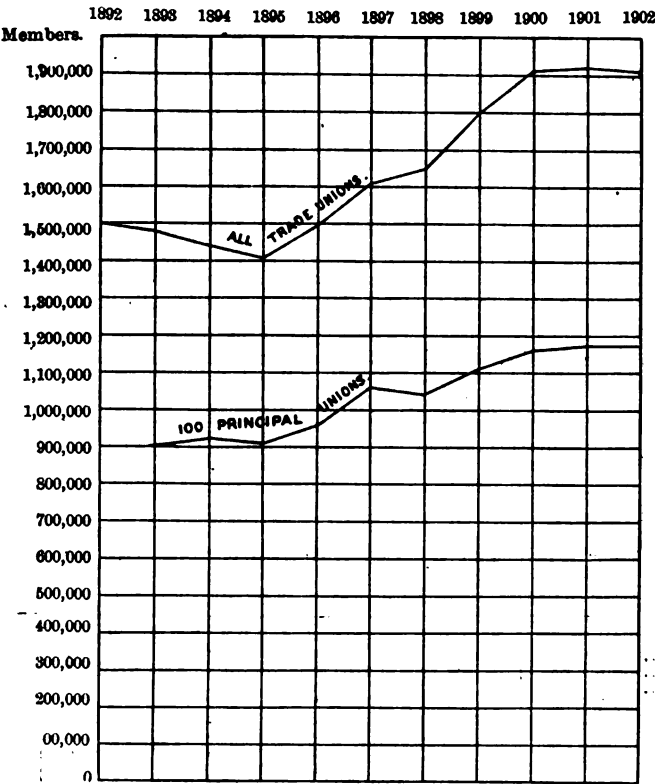
(Handed in by Mr. G. R. Askwith on the First Day. See Question 12.)

At the end of 1902, there were in existence 1,183 Trade Unions with a total membership of 1,915,506, as compared with 1,221 Unions with 1,927,952 members at the end of 1901, a decrease in membership of 12,446 or 0·6 per cent. Over 69 per cent. of the total membership is found in the building, mining, and quarrying, metal, engineering and shipbuilding, and textile trades. The mining and quarrying trades alone contain 520,000, or 27 per cent. of the total number of Trade Unionists in the United Kingdom.

The Table below gives at the end of each of the years 1892–1902, the membership (1) of the 100 principal Unions, and (2) of all other Unions, with the percentage increase or decrease compared with the previous year.

Year.	100 Principal Trade Unions.		Other Trade Unions.		All Trade Unions.	
	Total.	Increase (+) or decrease (–) per cent.	Total.	Increase (+) or decrease (–) per cent.	Total.	Increase (+) or decrease (–) per cent.
1892 ..	900,686	—	604,602	—	1,505,288	—
1893 ..	905,049	+ 0·5	577,211	– 4·5	1,482,260	– 1·5
1894 ..	920,001	+ 1·7	520,145	– 9·9	1,440,146	– 2·8
1895 ..	910,404	– 1·0	500,248	– 3·8	1,410,652	– 2·0
1896 ..	958,018	+ 5·2	589,084	+ 7·8	1,497,052	+ 6·1
1897 ..	1,061,311	+ 10·8	554,582	+ 2·9	1,615,893	+ 7·9
1898 ..	1,083,686	– 2·1	618,807	+ 10·6	1,651,998	+ 2·2
1899 ..	1,112,576	+ 7·1	694,313	+ 12·2	1,806,889	+ 9·4
1900 ..	1,159,246	+ 4·2	756,467	+ 9·0	1,915,713	+ 6·0
1901 ..	1,169,222	+ 0·9	758,730	+ 0·3	1,927,952	+ 0·6
1902 ..	1,169,333	+ 0·0	746,173	– 1·6	1,915,506	– 0·6

From the above Table it will be seen that very little change has taken place in the total membership during the last two years, but over the period of ten years (1892–1902) the total membership has increased by 27 per cent. the increase in the 100 principal Unions being nearly 29 per cent., and in the other Unions rather more than 23 per cent. The fluctuations over the period are shown in the following chart :—



One hundred and thirty-nine Unions included women and girls as members in 1902, the total number of whom at the end of the year was 122,128 as compared with 120,409, in 146 Unions, at the end of 1901.

* Extracted from the "Labour Gazette" of October, 1903.

Appendix.
1st Day.
No. 1—
continued.

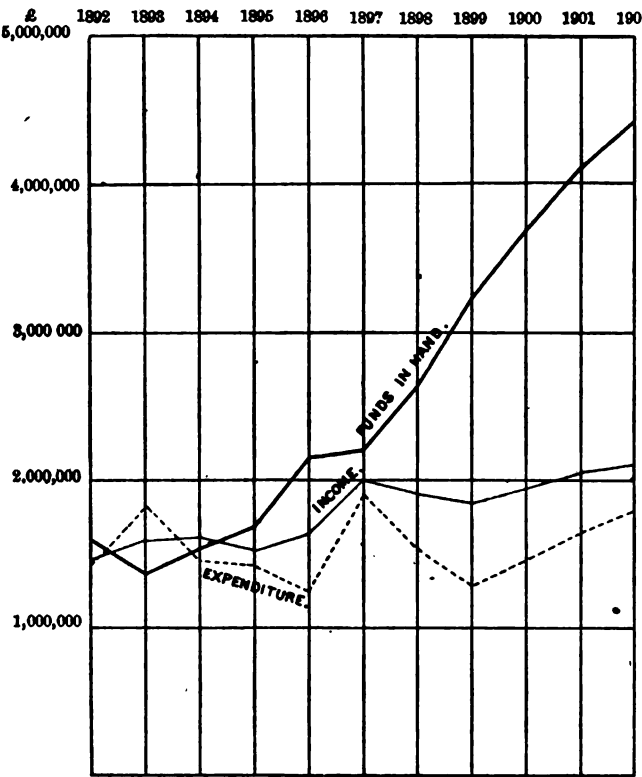
ACCOUNTS OF THE 100 PRINCIPAL TRADE UNIONS.

An analysis of the accounts of 100 of the principal Unions for the eleven years 1892-1902 has been made, the results of which are shown in the following Table :—

Year.	Member- ship at end of Year.	Income.		Expenditure.		Funds at end of Year.	
		Amount.	Per Member.	Amount.	Per Member.	Amount.	Per Member.
		£	s. d.	£	s. d.	£	s. d.
1892 ..	900,636	1,464,440	32 6½	1,432,871	41 9½	1,576,290	35 0
1893 ..	906,049	1,617,998	35 9	1,589,118	40 7½	1,855,130	29 11½
1894 ..	920,001	1,623,409	35 2½	1,427,633	31 0½	1,550,906	23 8½
1895 ..	910,404	1,543,251	34 0½	1,382,087	30 4½	1,717,120	37 8½
1896 ..	958,018	1,663,298	34 8½	1,225,619	25 7	2,154,769	44 11½
1897 ..	1,061,311	1,963,476	37 6½	1,912,081	36 0½	2,229,164	43 0
1898 ..	1,088,666	1,917,810	36 11	1,498,776	28 10½	2,647,698	50 11½
1899 ..	1,112,576	1,843,479	38 2½	1,270,678	22 10	3,225,604	57 11½
1900 ..	1,159,246	1,962,981	33 10½	1,467,592	25 2½	3,720,908	64 2½
1901 ..	1,169,222	2,060,874	35 8	1,662,110	28 3	4,129,667	70 7½
1902 ..	1,199,338	2,109,656	36 1	1,814,727	31 0½	4,424,596	75 8½

In the period covered by the Table, the funds of the 100 Unions have arisen from £1,576,290, or 35s. 0d. per head of total membership, to £4,424,596, or 75s. 8½d. per head, or an increase of 181 per cent. on the aggregate of 1892, and of 116 per cent. on the amount of funds per head in that year. The income of the Unions in 1902 was £2,109,656, the highest of all years given in the Table, and the expenditure was £1,814,727.

The fluctuations in income and expenditure, and the consequent fluctuations in the amount of funds in hand of the 100 Unions, are shown in the following chart :—



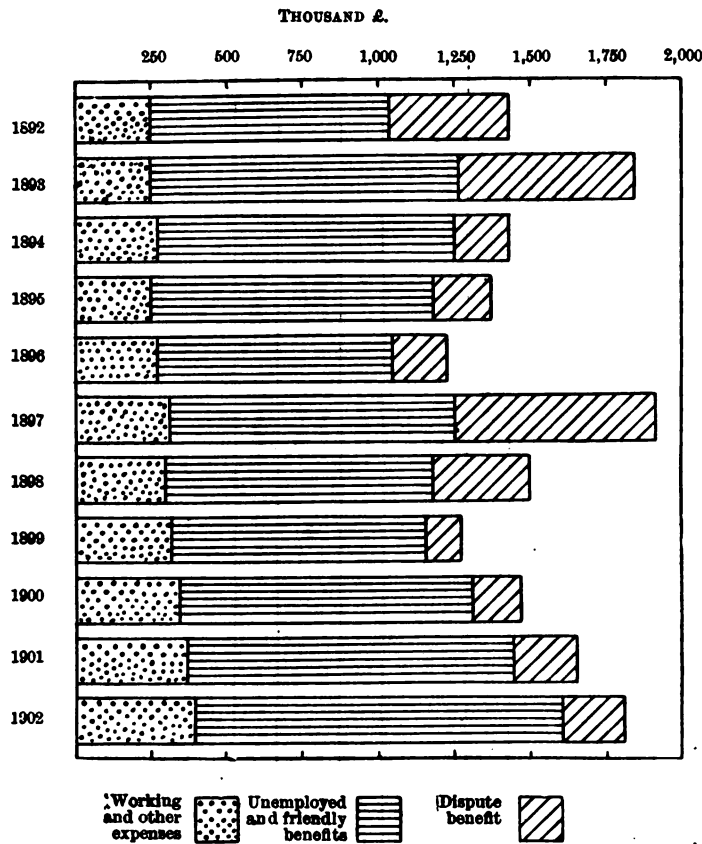
It will be seen that the slowest rate of increase was in 1897, the year of the great engineering dispute, when a sum of only about £74,000 was added to the accumulated funds and the amount of funds per head of total membership showed a decline of 2s. 11½d.

The following Table gives the expenditure of the 100 Unions under the heads of (1) dispute benefit, (2) unemployed and friendly benefits, and (3) working and other expenses of management :—

Year.	Dispute Benefit.		Unemployed and Friendly Benefits.		Working and other Expenses of Management.	
	Amount.	Per cent. of Total Expenditure.	Amount.	Per cent. of Total Expenditure.	Amount.	Per cent. of Total Expenditure.
	£		£		£	
1892 ..	806,548	27.7	782,270	54.6	264,053	17.7
1893 ..	574,583	31.2	1,006,883	54.8	257,653	14.0
1894 ..	167,645	11.7	982,278	68.8	277,710	19.5
1895 ..	197,246	14.3	981,679	67.4	253,113	18.3
1896 ..	171,218	14.0	782,073	63.8	272,328	22.2
1897 ..	659,126	34.5	937,906	49.0	315,149	16.5
1898 ..	323,511	21.9	868,776	57.6	306,490	20.5
1899 ..	119,503	9.4	826,737	66.1	324,383	25.5
1900 ..	148,568	10.1	956,358	65.4	359,656	24.5
1901 ..	204,808	12.4	1,087,637	64.6	379,870	23.0
1902 ..	216,494	11.9	1,201,083	66.2	397,200	21.9

During the eleven years 1892-1902 the 100 principal Unions have expended £16,900,000, of which amount over £10,300,000, or 61 per cent., has been spent on unemployed and friendly benefits, such as payments to sick, injured, and superannuated members, and on account of funeral expenses. About £3,200,000, or 19 per cent. of the total, has been spent on dispute benefit, and the remaining 20 per cent. on working and other expenses. The lowest percentage expenditure on dispute benefit was 9·4 in 1899, and the highest 34·5 in 1897. The total expenditure in each year and the proportion on each of these three heads is brought out in the accompanying chart:—

Appendix.
1st Day.
No. 1—
continued.



The following Table gives for the years 1892-1902 the expenditure on each of the principal friendly benefits expressed as a percentage of the total expenditure:—

Year.	Unemployed.	Sick and Accident.	Super-annuation.	Funeral.
1892	22·7	14·7	7·0	4·7
1893	24·9	13·2	6·0	4·1
1894	31·3	16·1	8·4	4·8
1895	30·1	19·0	9·4	5·4
1896	21·3	20·1	11·4	6·1
1897	17·1	14·0	7·8	4·1
1898	16·0	18·6	10·7	5·5
1899	14·8	23·8	13·8	7·3
1900	17·8	22·1	12·7	6·7
1901	19·6	20·9	12·1	6·0
1902	23·2	20·1	12·1	5·4
Mean of 11 years	21·7	18·2	10·0	5·4

From the above it will be seen that the proportionate expenditure on unemployed fluctuates most, the divergence from the mean expenditure over the period being in one year, 1894, nearly 10 per cent. of the total expenditure. There is generally a tendency to increase in the case of superannuation benefit, the decline in the percentage in 1897 being due to the very large amount of dispute pay in that year.

Appendix.
1st Day.
No. 2.

2.—STATEMENT SUMMARISING THE STATISTICS OF STRIKES AND LOCK-OUTS IN THE UNITED KINGDOM IN EACH OF THE TEN YEARS, 1893-1902.

[Based on the published Returns of the Labour Department, Board of Trade.]

(Handed in by Mr. G. R. Aspinall on the First Day. See Question 12.)

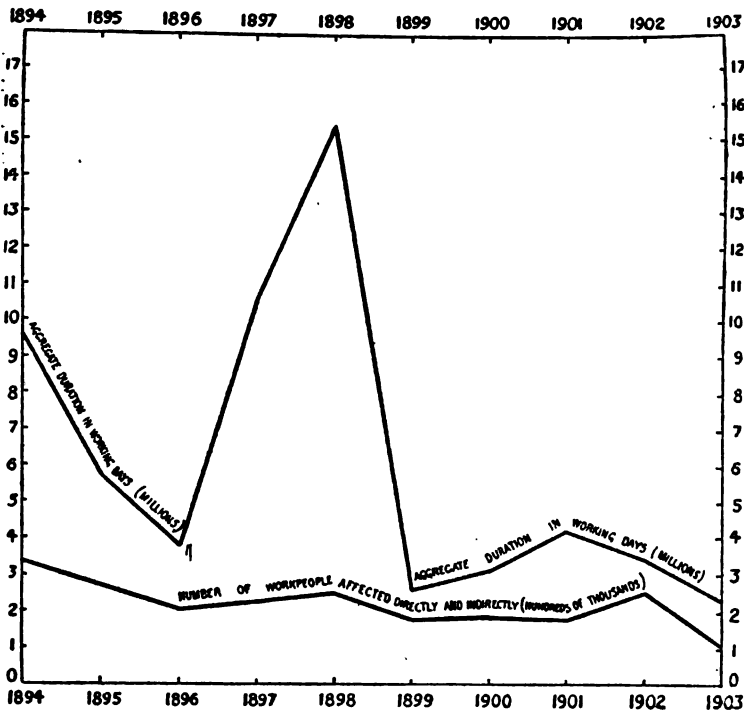
	1893.	1894.	1895.	1896.	1897.	1898.	1899.	1900.	1901.	1902.
(1). NUMBER AND MAGNITUDE OF STRIKES AND LOCK-OUTS :—										
Number of Strikes and Lock-outs recorded	615	929	745	926	864	711	719	648	642	442
Number of Workpeople affected*	634,301	325,248	283,123	198,190	230,267	253,907	180,217	188,538	179,546	256,967
Aggregate duration in working days	30,468,000	9,529,000	5,725,000	3,746,000	10,346,000	15,289,000	2,516,000	3,153,000	4,142,000	3,479,000
Average duration per head of estimated working population (in working days)-	3·8	1·2	0·7	0·5	1·2	1·8	0·3	0·4	0·5	0·4
(2). PRINCIPAL CAUSES :—										
Percentage of Workpeople <i>directly</i> affected by Strikes and Lock-outs due to the undermentioned causes :—										
Wages {										
For advance	29·5	41·2	34·3	39·3	29·9	75·6	53·4	42·4	17·8	13·0
Against reduction	59·6	29·5	10·7	7·1	4·9	5·3	5·0	5·5	13·3	22·3
Other	1·7	7·6	11·6	18·5	9·3	7·0	10·2	13·5	21·7	13·3
Total Wages	90·8	78·3	56·6	64·9	44·1	87·9	68·6	61·4	52·8	48·6
Hours of Labour {										
For decrease-	0·1	0·9	1·0	1·0	22·9	0·2	0·8	0·4	1·3	0·2
Against increase	0·2	0·3	1·1	0·2	0·1	0·1	0·1	0·0	0·3	0·0
Other	0·4	0·5	0·6	0·4	0·4	0·1	1·9	0·1	2·2	2·4
Total Hours	0·7	1·7	2·7	1·6	23·4	0·4	2·8	0·5	3·8	2·6
Employment of particular classes or persons	1·5	7·0	5·7	15·4	8·9	4·6	5·9	7·7	9·4	9·8
Other Causes	7·0	13·0	35·0	18·1	23·6	7·1	22·7	30·4	34·0	39·0
Total	100·0	100·0	100·0	100·0	100·0	100·0	100·0	100·0	100·0	100·0
(3). RESULTS :—										
Percentage of Workpeople <i>directly</i> affected by Strikes and Lock-outs which resulted—										
In favour of Employers	26·5	59·1	29·8	23·0	40·7	60·1	43·7	24·8	33·8	30·4
In favour of Workpeople	64·3	21·0	23·6	43·5	24·2	22·6	26·7	30·1	27·4	31·6
In a Compromise	9·2	18·9	45·7	28·3	34·0	17·2	29·1	41·7	36·8	35·7
(4). METHODS OF SETTLEMENT :—										
(a.) Number of Strikes and Lock-outs settled by—										
Arbitration	18	27	24	19	14	13	16	19	23	16
Conciliation and mediation	14	25	19	30	27	30	22	13	18	13
Mutual arrangement	445	606	496	633	624	495	562	487	456	316
Other ways-	138	271	206	244	199	173	119	129	145	97
(b.) Number of Workpeople affected* by Strikes and Lock-outs settled by—										
Arbitration	10,253	3,595	13,248	10,276	9,756	3,350	3,319	7,118	8,249	4,481
Conciliation and mediation	320,951	18,978	68,394	10,472	9,544	16,167	8,386	8,593	8,485	7,199
Mutual arrangement	189,643	231,437	126,678	136,307	187,048	206,926	156,743	155,025	143,470	222,647
Other ways-	113,454	71,388	55,903	41,135	23,919	27,464	11,769	17,802	19,262	22,510
(5). NUMBER OF CASES SETTLED UNDER CONCILIATION ACT † :—										
Disputes involving stoppage	—	—	—	4	12	6	3	4	12	7
Disputes not involving stoppage	—	—	—	2	8	8	5	6	12	10
Total	—	—	—	6	20	9	8	10	24	17

* Including those "indirectly affected," i.e., thrown out of work at the establishments where the dispute occurred, but not themselves on strike or locked-out.
† This Act came into operation on 7th August 1900. The cases are allotted to the year in which application was made to the Board of Trade.

3.—CHART showing the NUMBER of WORKPEOPLE DIRECTLY and INDIRECTLY AFFECTED by TRADE DISPUTES and AGGREGATE DURATION in WORKING DAYS in EACH YEAR, 1894–1903.

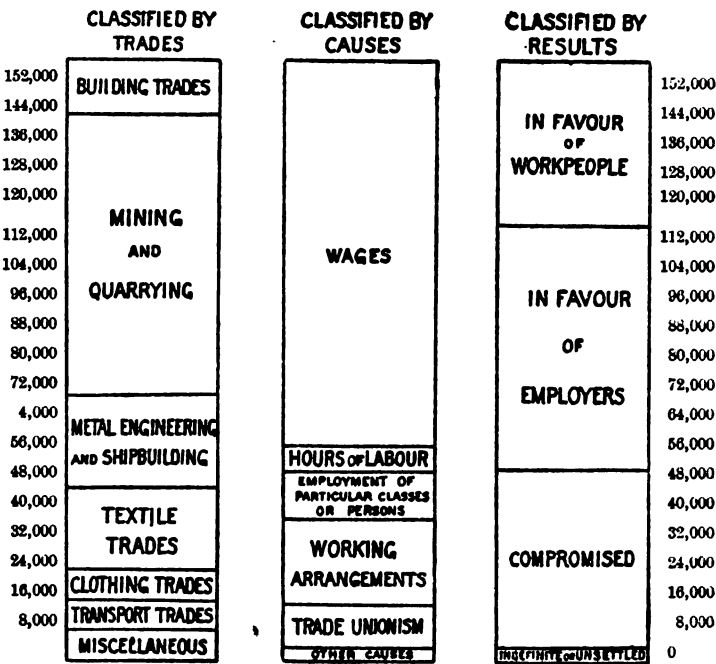
Appendix.
1st Day.
Nos. 3 and 4.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 12.)



4 —CHART showing the NUMBER of WORKPEOPLE DIRECTLY AFFECTED by TRADE DISPUTES CLASSIFIED by TRADES, CAUSES and RESULTS, MEAN of 10 YEARS 1894–1903.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 12.)



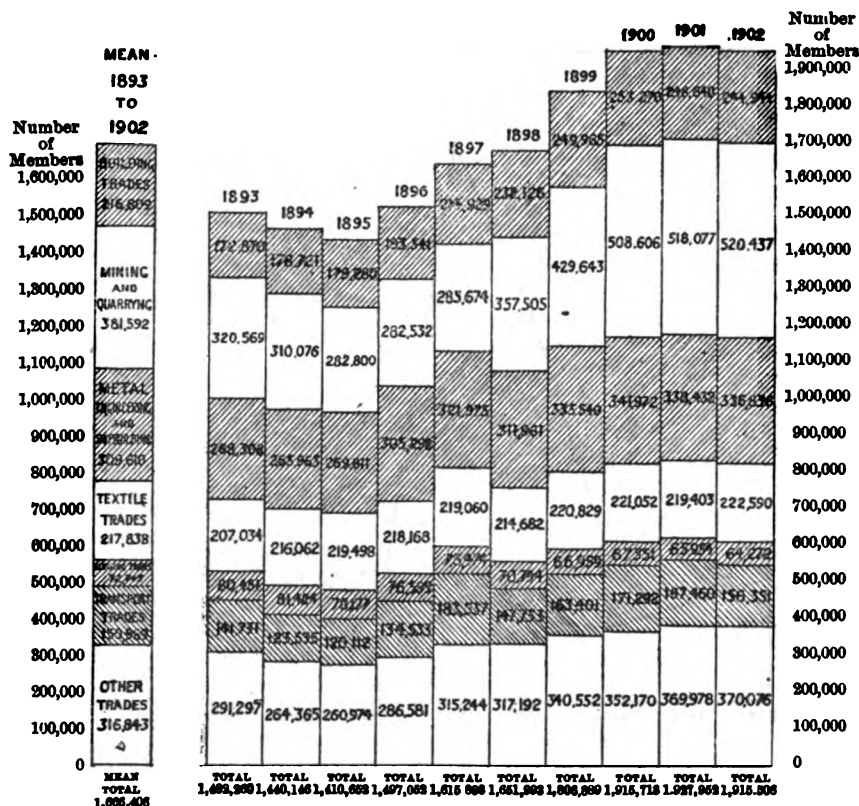
Appendix.

1st Day.
Nos. 5 and 6.

5.—CHART showing MEMBERSHIP of all TRADE UNIONS.

MEMBERSHIP IN EACH YEAR, 1893-1902, AND MEAN FOR PERIOD, CLASSIFIED BY TRADES.

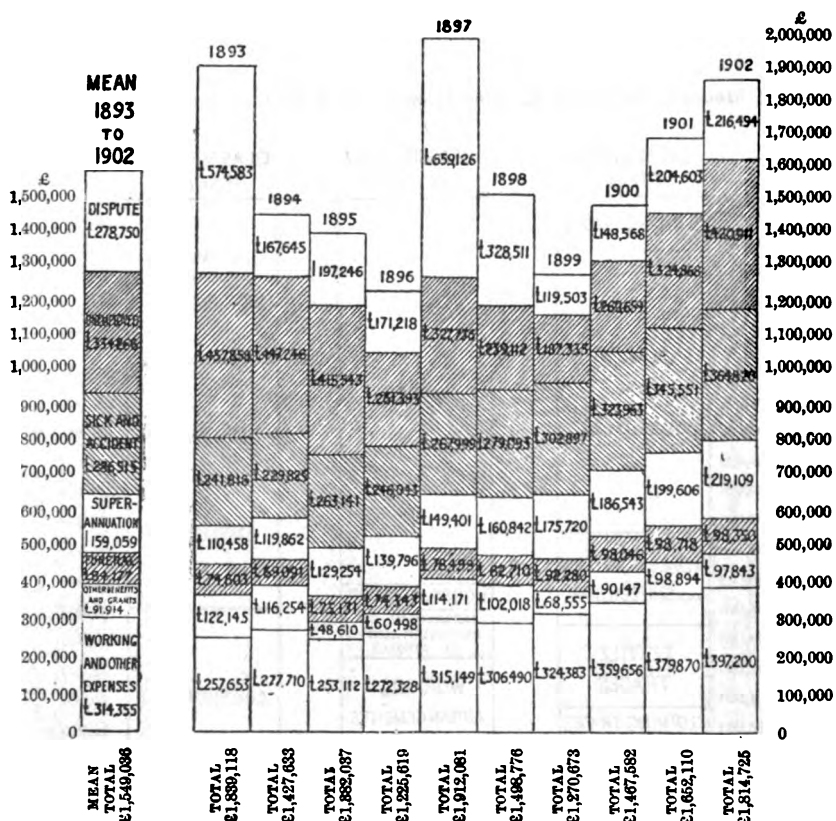
(Handed in by Mr. G. R. Askwith on the First Day. See Question 12.)



6.—CHART showing ANALYSIS of EXPENDITURE of TRADE UNIONS, 1893-1902.

EXPENDITURE ON DISPUTES, WORKING EXPENSES AND EACH CLASS OF FRIENDLY BENEFIT BY 100 PRINCIPAL TRADE UNIONS FOR EACH YEAR AND MEAN FOR PERIOD.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 12.)



7.—COPY of Mr. SHACKLETON'S BILL (No. 7) to LEGALISE the PEACEFUL CONDUCT of TRADE DISPUTES.

Appendix.
1st Day.
Nos. 7, 8,
and 9.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 86.)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

A.D. 1903.

1. It shall be lawful for any person or persons, acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following purposes at or near a house or place where a person resides, or works, or carries on his business, or happens to be :—

Legislation of peaceful picketing.

(1) For the purpose of peacefully obtaining or communicating information :

(2) For the purpose of peacefully persuading any person to work or abstain from working.

2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute, shall not be ground for an action if such act when committed by one person would not be ground for an action.

Amendment of law of conspiracy.

3. This Act may be cited as the Trades Disputes Act, 1903.

Short title.

8.—COPY of SIR CHARLES DILKE'S BILL (No. 55) to LEGALISE the PEACEFUL CONDUCT of TRADE DISPUTES, and to ALTER the LAW AFFECTING the LIABILITY of TRADE UNION FUNDS.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 86.)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

A.D. 1903.

1. Where an act is done in contemplation or furtherance of a trade dispute, the person doing the act shall not be liable to an action on the ground that by that act he interfered, or intended to interfere, either with the exercise by another person of his right to carry on his business, or with the establishment of contractual relations between other persons : Provided that nothing in this section shall exempt such person from liability on any other ground.

Restriction of actions for interfering with business or contracts.

2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be a ground for an action, if such act when done by one person is not a ground for an action.

Amendment of law of conspiracy.

3. An action shall not be brought against a trade union, or against any person or persons representing the members of a trade union in his or their representative capacity, for any act done in contemplation or furtherance of a trade dispute.

Prohibition of actions against trade unions.

4. Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order peaceably to persuade any person to do or abstain from doing that which he has a legal right to do or abstain from doing, shall not be deemed a watching or besetting within the meaning of section seven of the Conspiracy and Protection of Property Act, 1875.

Legalisation of peaceful picketing.

5. This Act may be cited as the Trade Dispute Act, 1903.

Short title.

* 9.—COPY of Mr. PAULTON'S BILL (No. 8) to AMEND the LAW RELATING to TRADES UNIONS and TRADE DISPUTES.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 86.)

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

A.D. 1904.

1. It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following purposes at or near a house or place where a person resides or works, or carries on his business, or happens to be—

Legalisation of peaceful picketing.

(1) For the purpose of peacefully obtaining or communicating information ;

(2) for the purpose of peacefully persuading any person to work or abstain from working.

2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be ground for an action, if such act when committed by one person would not be ground for an action.

Amendment of law of conspiracy

3. An action shall not be brought against a trade union, or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid.

Protection of trade union funds

4. This Act may be cited as the Trades Dispute Act, 1904.

Short title.

* For Mr. Whittaker's Trades Unions and Trade Disputes Bill which was read a second time in the House of Commons, on the 10th March, 1905, see page 93.

Appendix. 10.—COPY of SIR CHARLES DILKE'S BILL (No. 91) to LEGALISE the PEACEFUL CONDUCT OF TRADE DISPUTES and to ALTER the LAW AFFECTING the LIABILITY OF TRADE UNION FUNDS.
1st Day.
Nos. 10, 11,
and 12.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 86.)

- A.D. 1904. — Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—
- Restriotion of actions for interfering with business or contracts. 1. Where an act is done in contemplation or furtherance of a trade dispute, the person doing the act shall not be liable to an action on the ground that by that act he interfered, or intended to interfere, either with the exercise by another person of his right to carry on his business, or with the establishment or continuance of contractual relations between other persons: Provided that nothing in this section shall exempt such person from liability on any other ground.
- Amendment of law of conspiracy. 2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be a ground for an action, if such act when done by one person is not a ground for an action.
- Prohibition of actions against trade unions. 3. An action shall not be brought against a trade union, or against any person or persons representing the members of a trade union, in his or their representative capacity.
- Legalisation of peaceful picketing. 4. Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order peaceably to persuade any person to do or abstain from doing that which he has a legal right to do or abstain from doing, shall not be deemed a watching or besetting within the meaning of section seven of the Conspiracy and Protection of Property Act, 1875.
- Short title. 5. This Act may be cited as the Trade Dispute Act, 1904.

11.—EXTRACT from "INDUSTRIAL DEMOCRACY," by Mr. & Mrs. SIDNEY WEBB, pages 34-35.

A BILL ENTITLED AN ACT TO AMEND THE LAW RELATING TO TRADE DISPUTES.

(Referred to in Question 87.)

"1. No agreement, combination, or conspiracy entered into by or on behalf of an association of employers or a trade union in contemplation or furtherance of a trade dispute, and no act committed in pursuance of any such agreement, combination, or conspiracy shall be actionable, if such act would not be actionable if committed by one person without agreement, combination, or conspiracy of any kind, and if such agreement, combination, or conspiracy would not be indictable as a crime.

"2. No act committed, and no agreement, combination or conspiracy entered into, by or on behalf of an association of employers or a trade union in contemplation or furtherance of a trade dispute, shall be actionable by reason only of the motive for which it was committed or entered into, or of there being no lawful excuse or motive for such act, agreement, combination, or conspiracy.

"3. No agreement, combination, or conspiracy by or on behalf of an association of employers or a trade union in contemplation or furtherance of a trade dispute shall be indictable as a crime if no act itself punishable as a crime is contemplated or committed, whether as means or end, by, or in pursuance of such agreement, combination, or conspiracy.

"4. The words 'trade dispute between employers and workmen' in the third section of the Conspiracy and Law of Property Act of 1875 shall therein have the same meaning as 'trade dispute' in this Act.

"5. The words 'association of employers' and 'trade union' shall, for the purposes of this Act, both include any association of persons, whether registered or not, which attempts to regulate or influence any or all of the conditions of employment in one or more occupations, and shall also include any alliance, federation or combination of two or more such associations.

"6. The words 'trade dispute' shall include any dispute, difference of opinion, or failure of agreement existing or contemplated, between one or more employers or an association of employers, and one or more workmen or a trade union, or any alliance, federation, or combination of any of them, whether registered or incorporated or not, and whether or not such dispute, difference of opinion, or failure of agreement relates to the employment of any of the persons concerned, or to any pecuniary or other interest of any of them, and whether they or any of them belong to the same or different trades or places or societies."

12—PRÉCIS of "THE TIMES" REPORT, SEPTEMBER 5th, 1902, page 10, RESPECTING the ATTITUDE of the TRADES UNIONS with REGARD to the EXISTING STATE of the LAW.

(Handed in by Mr. G. R. Askwith on the First Day. See Question 88.)

At the Trades Union Congress (*Times*, 5th September, 1902, page 10) Mr. R. Bell, M.P. moved "that the Conference again emphatically protests against the series of legal decisions in the House of Lords and in the Courts, which have thwarted the express intention of the Trade Union Act, 1871, and the Conspiracy, etc., Act, 1875, and which have distorted the common law of the land in such a way as to deprive workmen of the full rights of combination, and to seriously jeopardise the funds of the union."

The Congress hereby demands fresh legislation.

1. Which shall clearly confer upon the unions the rights of voluntary associations enjoyed by them under the Trade Union Act, 1871, and of which they have been deprived by the Taff Vale decision of the House of Lords;

2. To legalise peaceful picketing and persuading;

3. To make it perfectly legal for men to withdraw their labour other than in breach of contract, and also for unions to sanction such withdrawal, and for officials to advise or convey the decisions to withdraw under all circumstances when men are pursuing the objects of trade unionism;

4. To clearly define the law of conspiracy, so that what is legal for one man to do shall not be either a criminal offence or an actionable wrong if done by many in combination;

5. To define and codify the laws of trade unions and industrial disputes in accordance with above principles.

13.—COPY of a LETTER addressed to MEMBERS of PARLIAMENT by the TRADES UNION CONGRESS PARLIAMENTARY COMMITTEE, Albany Buildings, 47, Victoria Street, Westminster, LONDON, S.W. 5th MAY, 1903.

Appendix.
—
1st Day.
No. 13

(Handed in by Mr. G. R. Askwith on the First Day. See Question 88.)

DEAR SIR,—

Re TRADES DISPUTE BILL.

On Friday, May the 8th, a Bill entitled "The Trades Dispute Bill" is down for second reading in the House of Commons in the name of Mr. D. J. Shackleton, M.P., and others.

I am instructed by the Parliamentary Committee of the Trades Union Congress, representing over 1,500,000 working men and women, to make a respectful and earnest appeal to you to do them the honour of supporting Mr. Shackleton, and voting for the Bill on the occasion of its second reading.

As you are doubtless aware, the present difficulty in which Trade Unions are placed is the outcome of certain judgments which have been given against them in the law courts, which entirely alter the law in what has been understood to be its meaning for the last thirty years.

The law as it stood has operated fairly and peacefully during a long period of years between employers and employed, but, if it is to remain as lately interpreted, it is certain that litigation, friction, and bad feeling will be the outcome.

The relative position between trade unions and employers is shown by the following comparisons :—

*Trade Unionists' Position
now under the Law.*

1. It is illegal for trade unionists during a dispute to peacefully persuade men not to enter the employment of a firm in conflict with the union.

2. It is illegal for trade unionists to issue lists of unfair firms with a view to preventing men from work-

*Employers' Position now
under the Law.*

1. Employers can, and do, persuade men to enter their employment during a strike or lock-out, advertise for men, and send out agents to procure them.

2. Employers can, and do, issue blacklists, and through the medium of the character note system they constantly

ing for such firms, or preventing other firms from trading with them.

3. It is illegal for trade unionists to strike in order to compel men to join a union.

prevent men getting employment with firms who would otherwise be willing to employ them.

3. Employers constantly discharge men simply because they are members of a trade union.

Trade Union Grievances.

1. Peaceable picketing is declared illegal (*Lyons v. Wilkins*).
2. Acts when done by one person are legal; when done by combination with others are actionable at common law as a conspiracy.
3. As a result of the two grievances above mentioned of judicial interpretations of the law, trade union funds are placed very largely at the mercy of the employers.

We make this appeal to you for the following reasons :—

1. We seek this proposed change of the law on the common ground of justice and equality before the law of employers and employed.
2. We want reasonable facilities for picketing during labour disputes, and these facilities defining in clear phraseology.
3. We respectfully desire on behalf of trade unions that under the Conspiracy Act the same rights shall be extended to actions done by persons in combination as to acts done by a single person.

We earnestly solicit your support and vote on behalf of Mr. Shackleton's Bill.

I am,

On behalf of the Parliamentary Committee,
Yours faithfully,

(Signed) S. Woods,
Secretary.

THIRD DAY.**1. STATEMENT SHOWING ASSOCIATIONS OF EMPLOYERS.***

GENERAL SUMMARY FOR 1902.

[Based on special returns supplied to the Department.]

(Handed in by Mr. G. R. Askwith on the Third Day. See Question 130a.)

Trades.	Federations and National Associations.	Local Associations.			Total.
		England and Wales.†	Scotland.	Ireland.	
BUILDING TRADES.					
Master builders	15	178	29	6	228
„ bricklayers .. .. .	..	1	..	..	1
„ masons .. .. .	..	2	11	..	13
„ carpenters and joiners .. .. .	..	3	8	..	11
„ slaters	1	7	3	..	11
„ plumbers	1	40	8	3	52
„ plasterers	2	10	6	..	18
„ painters	5	59	11	4	79
„ glaziers .. .. .	..	1	..	..	1
Total	24	301	76	13	414
MINING AND QUARRYING.					
Coal mining	1	20	5	..	26
Ironstone mining .. .. .	..	1	..	..	1
Quarrying	1	5	3	..	9
Total	2	26	8	..	36
METAL, ENGINEERING, AND SHIPBUILDING TRADES.					
Iron and steel trades .. .. .	..	8	2	..	10
Engineering and shipbuilding	3	46	16	1	66
Miscellaneous metal trades and metal working .. .. .	..	22	..	..	22
Total	3	76	18	1	98
TEXTILE TRADES.					
Cotton trades	2	27	..	..	29
Woollen and worsted trades .. .. .	..	3	..	..	3
Other textile trades	1	6	1	3	11
Bleaching, dyeing and finishing	1	5	1	..	7
Total	4	41	2	3	50
CLOTHING TRADES.					
Boot, shoe and clog manufacture	2	23	4	1	30
Tailoring	1	20	8	3	32
Other clothing trades	1	3	..	..	4
Total	4	46	12	4	66
MISCELLANEOUS TRADES.					
Cab, cart, and car owners .. .. .	..	5	2	..	7
Ship, barge, fishing vessels, &c., owners	1	9	1	..	11
Agriculture .. .. .	..	1	..	..	1
Printing and kindred trades	5	30	4	2	41
Wood-working and furnishing trades	3	21	7	3	34
Glass, pottery and brick trades .. .. .	..	17	4	..	21
Corn traders .. .. .	..	2	..	1	3
Bakers and confectioners	3	24	13	1	41
Other miscellaneous trades	1	18	3	1	23
Total	13	127	34	8	182
Parliamentary Associations	2	..	..	..	2
GRAND TOTAL*	52	617	150	29	848

* Associations purely for the purposes of trade protection, insurance, and the diffusion of information, or the advancement of technical knowledge, are, so far as possible, included.

† Including three Associations in the Isle of Man.

TENTH DAY.

1.—EXTRACT from the REPORT and FINANCIAL STATEMENTS for 1903 of the AMALGAMATED SOCIETY of RAILWAY SERVANTS of ENGLAND, IRELAND, SCOTLAND, and WALES.

(Referred to by Mr. A. Beasley on the Tenth Day. See Questions 967 and 978.)

GENERAL BALANCE SHEET OF THE AMALGAMATED SOCIETY OF RAILWAY SERVANTS FOR THE YEAR 1903.

Appendix.
—
10th Day.
No. 1.

Dr.						Cr.									
No. 1 Account—		£	s.	d.	£	s.	d.	No. 1 Account—		£	s.	d.	£	s.	d.
To	Members' Contributions,							By	General Management Fund						
	Scale A	27,625	4	10					Expenditure	7,064	17	4			
"	Members' Contributions,							"	Central and Legal Defence						
	Scale B	7,069	14	5					Fund Expenditure	3,863	18	10			
"	Members' Contributions,							"	Annual and Special General						
	Parliamentary Representa-								Meetings Expenditure	861	1	7			
	tion Fund	875	2	4				"	Donation and Suspension						
"	Interest on Invested Funds	3,487	15	5					Expenditure	3,233	16	0			
"	Amounts Received for Goods	498	7	1				"	Protection Fund Expendi-						
"	Sundry Income at Head Office	241	9	3					ture	24,740	13	3			
"	" " at Branches	355	2	8				"	Parliamentary Representa-						
		40,152	16	0					tion Fund Expenditure	600	0	0			
								"	Goods Account Expenditure	505	5	6			
"	Balance of							"	Reserve Fund Expenditure	397	7	6			
	Branch G.							"	Overy's Children Fund Ex-						
	Funds, Dec.								penditure	7	12	6			
	31st, 1902 £79,998 13 9							"	Sum allowed for Branch						
"	Balance of								Management	7,663	18	8			
	H.O. Funds,							"	Sum overspent for Ditto	70	14	7			
	Dec. 31st,							"	Transfers written off, etc.	367	3	8			
	1902 - 40,101 4 2														
		120,099	17	11						49,363	9	5			
					160,252	13	11								
No. 2 Account—								"	Balance of						
"	Members' Contributions,								Branch G.						
	Scale A	11,839	7	9					Funds on						
"	Members' Contributions,								Dec. 31st,						
	Sick Fund	2,327	18	4					1903 - £8,054 7 1						
"	Interest on Invested Funds	3,839	14	0				"	Balance of						
"	Subscriptions and Collec-								H.O. Funds						
	tions for O. Fund	6,256	0	1					on Dec.						
"	Rents received from Streat-								31st, 1903. 102,831 17 5						
	ham Property	301	14	0						110,886	4	6			
"	Rents received from Stock-												160,252	13	11
	well Property	39	0	0											
"	Sundry Income at H. O. and								No. 2 Account—						
	Branches	57	8	3				By	Disablement and Death						
		24,661	2	5					Fund Expenditure	4,622	6	0			
"	Balance of H.O. Funds, Dec.							"	Orphan Fund Expenditure	9,359	9	4			
	31st, 1902 - 153,589 6 1							"	Sick Fund Expenditure	2,082	0	0			
					178,250	8	6	"	Streatham Property Ex-						
									penditure	295	9	2			
								"	Stockwell Property Ex-						
									penditure	36	14	0			
										16,395	18	6			
								"	Balance of H. O. Funds,						
									Dec. 31st, 1903	161,854	10	0			
													178,250	8	6

GENERAL BALANCE SHEET OF BRANCH MANAGEMENT FUND FOR 1903.

	£	s.	d.		£	s.	d.
To Entrance Fees - - - - -	435	0	0	By Secretaries' Salaries - - - - -	2,562	18	6
„ Sum allowed from General Fund - - -	7,663	18	8	„ Rent of Meeting Rooms - - - - -	928	4	3
„ „ Overspent - - - - -	70	14	7	„ Purchase of Goods from Head Office - -	500	14	5
„ Sale of Rules, Cards, etc. - - - - -	396	19	10	„ Printing, Postage, and other Expenses of			
„ Other Income - - - - -	310	18	4	Management - - - - -	4,463	0	10
„ Balance brought forward from December				„ Transfers, etc. - - - - -	78	10	3
31st, 1902 - - - - -	5,757	16	4	„ Balance of B. M. Funds on December 31st,			
				1903 - - - - -	6,101	19	6
	£14,635	7	9		£14,635	7	9

Number of Members, December 31st, 1903, 52,355, Value per Member, £5 6s. 6d.

Examined and certified correct,

J. R. BELL } Auditors.
JAS. A. BOOTH. }

RICHARD BELL, *General Secretary.*
JAMES WILLIAMS, *Assistant Secretary.*

May 2nd, 1904.

Appendix. GENERAL STATEMENT OF THE RECEIPTS AND EXPENDITURE, FUNDS AND EFFECTS, OF THE
10th Day. AMAIGAMATED SOCIETY OF RAILWAY SERVANTS, FROM 1st JANUARY TO 31st DECEMBER, 1903.
No. 1—
continued.

As supplied to the Registrar of Friendly Societies.

GENERAL ACCOUNT.

Receipts.	£ s. d.	Expenditure.	£ s. d.
To Entrance Fees - - - - -	435 0 0	By Allowance to Members seeking employment	3,233 16 0
„ Contributions paid by Members:—		„ Protection Fund Benefit - - - - -	24,740 13 3
General Administrations; Central and		„ Contributions to other Trade Unions, etc. -	77 15 0
Legal Defence Funds - - - - -	17,936 12 6	„ Sickness Pay - - - - -	2,082 0 0
Donation Fund - - - - -	7,687 2 5	„ Disablement and Death Payments - - - - -	4,622 6 0
Protection Fund - - - - -	9,071 4 4	„ Orphan Fund Benefit - - - - -	9,359 9 4
Parliamentary Representation Fund -	875 2 4	„ Salaries of 11 Paid Officers, 13 Clerks, and	
Disablement and Death Fund - - - - -	7,892 18 6	632 Branch Secretaries - - - - -	5,190 7 1
Orphan Fund - - - - -	3,946 9 3	„ Rent - - - - -	1,141 1 5
Sick Fund - - - - -	2,327 18 4	„ Stationery, Printing, Postage, etc. - - -	5,737 18 10
„ Interest Received - - - - -	7,327 9 5	„ Legal Charges, etc. - - - - -	3,863 18 10
„ Emblems, Rules, Cards, &c., sold - - -	895 6 11	„ Other Expenses of Management—viz.,	
„ Subscriptions and Collections for Orphan		General Management of A.G.M., E.C., and	
Fund - - - - -	6,256 0 1	F.C. Meetings, Parliamentary, Goods,	
„ Rents—Streatham and Stockwell Property	340 14 0	Streatham and Stockwell Property, etc.	6,511 17 2
„ Sundries - - - - -	964 18 6		
		Total Expenditure -	66,561 2 11
Total Receipts -	65,956 16 7	Amount of Funds at end of year -	278,842 14 0
Amount of Funds at the beginning of			
the year, as per last year's Balance			
Sheet - - - - -	279,447 0 4		
Total - - - - -	£345,403 16 11	Total -	£345,403 16 11

BALANCE SHEET OF FUNDS AND EFFECTS.

Liabilities.	£ s. d.	Assets.	£ s. d.
To Amount of Management Funds at Head		By Investments, as per list of Investments of	
Office - - - - -	9,197 6 7	Head Office Funds, No. 1 Account -	102,831 17 5
Management Funds at Local Branches -	6,101 19 6	„ Investments, as per list of Investments of	
Donation Fund at Head Office and Branches	68,514 2 10	Head Office Funds, No. 2 Account -	161,854 10 0
Protection Fund - - - - -	32,966 1 2	„ Cash in Post Office Savings Bank - - -	9,299 1 8
Parliamentary Fund - - - - -	218 7 0	„ Cash in Hand of Branches - - - - -	4,595 12 0
Death and Disablement Fund - - - - -	76,854 11 8	„ Sums under Investigation - - - - -	261 12 11
Orphan Fund - - - - -	81,642 5 11		
Sick Fund - - - - -	3,347 19 4		
Total -	£278,842 14 0	Total -	£278,842 14 0

JOHN PILCHER, 114, Chapter Road,
Willesden Green, N.W.
GEORGE W. ALCOCK, 18 Hawksley
Road, Stoke Newington, N.
PHILIP HEWLETT, 141, Wakeman
Road, Kensal Rise, W.

Signatures of Trustees.

RICHARD BELL, General Secretary,
151, Brownlow Road, New Southgate, London, N.
JAMES WILLIAMS, Assistant Secretary,
27, Westbury Road, Bowes Park, London, N.

The undersigned, having had access to all the books and accounts of the Trade Union, and having examined the foregoing General Statement, and verified the same with the accounts and vouchers relating thereto, now sign the same as found to be correct, duly vouched, and in accordance with law.

Signature of 1st Auditor - JAMES R. BELL.
Address - - - - - 77, Mary Street, Blaydon-on-Tyne.
Calling or Profession - Goods guard.

Signature of 2nd Auditor - JAMES A. BOOTH.
Address - - - - - 20, Newton Street, Sowerby
Bridge.
Calling or Profession - Clerk.

(Date) May 2nd, 1904.

EXPLANATION OF BALANCES AND TABLE OF INVESTED FUNDS

For Year ending December 31st, 1903.

HEAD OFFICE TRADE UNION FUNDS NO. 1. ACCOUNT.

Appendix.
10th Day.
No. 1—
continued.

	£	s.	d.	£	s.	d.
Great Eastern Railway 4 per cent. Debenture Stock - - - - -	4,972	0	0			
Great Northern Railway 3 per cent. Debenture Stock - - - - -	4,000	0	0			
Great Western Railway 4 per cent. Debenture Stock - - - - -	2,000	0	0			
Great Northern Railway 3 per cent. Preference Stock - - - - -	5,000	0	0			
" " (Ireland) 4 per cent. - - - - -	3,500	0	0			
Great Southern and Western Railway (Ireland) 4 per cent. - - - - -	3,180	0	0			
Lancashire and Yorkshire Railway 3 per cent. Debenture Stock - - - - -	4,000	0	0			
London and Brighton and South Coast Railway 4 per cent. Debenture Stock - - - - -	2,000	0	0			
London and North-Western Railway 3 per cent. Debenture Stock - - - - -	2,887	0	0			
London and South-Western Railway 3 per cent. Debenture Stock - - - - -	4,000	0	0			
" " 3 " " " - - - - -	4,000	0	0			
" " 3 " " " - - - - -	5,904	0	0			
" " 3½ " " " - - - - -	3,000	0	0			
Midland Railway 2½ per cent. Debenture Stock - - - - -	3,100	16	0			
North-Eastern Railway 3 per cent. Debenture Stock - - - - -	5,333	0	0			
" " 3 " " " - - - - -	9,093	0	0			
Cost of Purchase of Railway Stock - - - - -	2,046	6	9	67,796	2	9
Bradford Corporation, 3 per cent. Stock - - - - -	4,400	0	0			
Railway Debenture Stock and Cost of Purchase - - - - -	67,796	2	9			
Croydon " 3½ " " - - - - -	3,650	0	0			
Leeds " 2½ " " - - - - -	5,120	0	0			
Liverpool " 3½ " " - - - - -	3,600	0	0			
Manchester " 3 " " - - - - -	4,400	0	0			
Nottingham " 3 " " - - - - -	4,200	0	0			
Plymouth " 3 " " - - - - -	4,600	0	0			
Cost of Purchase of Corporation Stock - - - - -	5,035	11	0	35,005	11	0
Cash in General Secretary's hands - - - - -				29	2	9
Stamps on Hand - - - - -				1	0	11
				£102,831	17	5

HEAD OFFICE PROVIDENT FUNDS NO. 2 ACCOUNT.

	£	s.	d.	£	s.	d.
King's Cross Publishing Company Debenture Shares - - - - -	1,000	0	0			
Co-operative Printing Society Shares - - - - -	200	0	0	1,200	0	0
" Mortgage on Dwelling House, 46, Santley Street, Stockwell, London, S.W. - - - - -	213	0	0			
" Nos. 106 to 126, Wellfield Road, Streatham - - - - -	2,025	0	0			
" Hassock's Property - - - - -	5,500	0	0			
" Muswell Hill Property - - - - -	800	0	0			
" Farnborough Property - - - - -	1,500	0	0			
" Turnmill Street Property - - - - -	434	0	0			
" Ealing Tenants Limited - - - - -	1,450	0	0			
" " " " - - - - -	1,400	0	0			
" Croydon Road Property, Beckenham - - - - -	1,800	0	0			
" St. Anne's Terrace Property, Barnes - - - - -	1,500	0	0			
" " " " - - - - -	600	0	0	17,222	0	0
Mortgages to Members - - - - -				40,016	9	1
Loan to Beaumaris Corporation - - - - -	6,497	12	8			
" Leigh Union - - - - -	1,716	0	0			
" East Ham District Council - - - - -	4,851	3	1			
" Halifax Corporation - - - - -	5,000	0	0			
" Leigh Rural District Council - - - - -	490	0	0			
" Leigh Union - - - - -	1,473	6	0			
" North Wales Quarries Limited, and Shares - - - - -	500	0	0			
" Tynemouth Corporation - - - - -	10,000	0	0			
" Bury Corporation - - - - -	10,000	0	0			
" Lancashire Inebriates Acts Board - - - - -	42,618	0	0	83,146	1	9
General Builders Limited, Shares - - - - -				50	0	0
West Ham Corporation Stock - - - - -				521	18	9
Freehold Property, 72, Acton Street, London, W. - - - - -				4,740	17	3
Cash in Bank (Deposit Account) - - - - -	500	0	0			
" (Current Account) - - - - -	14,447	19	5			
" Hands of General Secretary - - - - -	9	3	9	14,957	3	2
				£161,854	10	0

SUMMARY.

	£	s.	d.
Total Amount of Trade Union Funds, No. 1 Account - - - - -	102,831	17	5
" " Provident Funds, No. 2 Account - - - - -	161,854	10	0
Gross Total, as per General Cash Statement - - - - -	£264,686	7	5

APPENDICES :

Appendix.

GENERAL OFFICE ACCOUNTS FOR YEAR ENDING DECEMBER 31st, 1903.

10th Day.
No. 1—
continued.

No. 1.—TRADE UNION ACCOUNTS

GENERAL ADMINISTRATION, CENTRAL AND LEGAL DEFENCE, AND ANNUAL GENERAL MEETING FUNDS

Dr.	£	s.	d.	Cr.	£	s.	d.
To dues received from Branches, Scale A -	7,904	18	8	By President's Expenses	8	6	2
„ Do. Scale B. -	2,334	18	6	„ General Secretary's Wages	250	0	0
„ Balances of Funds of closed Branches -	85	12	6	„ Ditto Fares and Expenses	115	19	0
„ Refunded by Sundry Branches -	44	10	3	„ Assistant Secretary's Wages	170	12	2
„ Railway Review outstandings -	32	19	9	„ Ditto Fares and Expenses	32	19	6
„ 25 per cent. Levy on Funds of Branches -	17,662	7	11	„ Ditto Removal Expenses	26	17	5
„ Rent, per King's Cross Publishing Company -	27	10	0	„ Mr. A. Mear (Organising Secretary), Wages	151	6	8
„ W. Hudson, Petty Cash -	10	0	0	„ Ditto Fares and Expenses	72	18	2
„ Sundries—				„ Ditto Office Rent	10	0	0
Stamp Account -	0	1	11	„ Mr. J. Dobson (Organising Secretary), Wages	158	0	0
Advertising Account -	3	6	8	„ Ditto Fares and Expenses	119	10	6
Discounts -	1	2	0	„ Ditto Office Rent	12	10	0
Rotherhithe Branch -	2	3	0	„ Mr. J. G. Muir (Organising Secretary), Wages	151	6	8
King's Cross Publishing Company for Furniture -	28	0	0	„ Ditto Fares and Expenses	74	15	3
				„ Ditto Office Rent	10	0	0
				„ Mr. J. Holmes (Organising Secretary), Wages	151	6	8
				„ Ditto Fares and Expenses	114	18	8
				„ Ditto Office Rent	14	18	0
				„ Mr. W. Hudson (Organising Secretary), Wages	183	8	0
				„ Ditto Fares and Expenses	133	14	0
				„ Ditto Office Rent	30	0	0
				„ Clerks' and Messengers' Wages	1,384	18	5
				„ Guarantee Premiums	3	10	0
				„ Treasurer's Salary	17	10	0
				„ Trustees' Salaries	9	0	0
				„ Finance Committee's Fees and Fares	77	8	6
				„ Executive Committee's Fees and Fares	438	17	9
				„ Rules Revision Committee's Fees and Fares	24	0	0
				„ Auditors' Fees and Fares	94	18	2
				„ Delegate to—			
				N. Wales Quarries Conference	4	3	9
				London Conciliation Board	0	14	6
				Free Trade Conference	0	13	6
				„ E.C. Delegates' reports to Branches	53	13	0
				„ A.G.M. Delegates' reports to Branches	49	5	10
				„ Investigating Claims, E.C. Delegate	0	16	4
				„ Special Branch Meeting Expenses	96	8	6
				„ T. U. Congress Fees	86	10	0
				„ Ditto Delegates' Expenses	23	12	7
				„ Scottish T. U. Congress Fees	4	0	0
				„ Irish T. U. Congress Grant	10	0	0
				„ Ditto Delegates' Fees	3	13	11
				„ Labour Representation Committee Fees	1	15	0
				„ Ditto Delegates' Expenses	5	6	2
				„ Scottish Workers' Representation Committee	0	19	6
				„ Leeds Conference with A.S.L.E. & F.	45	13	9
				„ Grants to District Councils	20	19	3
				„ Railway and Canal Commission, Witnesses' Expenses	74	15	11
				„ Scrutineers, re Voting Papers	55	18	2
				„ Burglary Insurance	10	0	0
				„ Registration of New Rules	1	0	0
				„ Ditto Telegraphic Address	1	1	0
				„ Brake Trials Appeal	10	2	1
				„ Printing and Stationery	1,274	18	0
				„ Parliamentary and Legal Papers	108	17	9
				„ Office Fittings, Head Office, Repairs and Alterations	491	3	11
				„ Rates, Taxes and Insurance	104	5	8
				„ Telephone Rent	17	0	0
				„ Coal, Lighting, and Cleaning Offices	65	18	8
Carried forward	£28,137	11	2	Carried forward	£6,666	16	5

GENERAL ADMINISTRATION, ETC.—*continued*.

Appendix.

10th Day.
No. 1—
continued.

Dr.	£ s. d.	Cr.	£ d
Brought forward	28,137 11 2	Brought forward	6,666 16 5
		By Carriage of Parcels, and Sundries	89 19 10
		„ Advertising	0 18 0
		„ Bank Charges	2 12 6
		„ Postage and Telegrams	159 1 5
		„ Interest on Acton Street Property	135 9 2
		„ Depreciation of Acton Street Property	135 9 2
			7,190 6 6
		ADJOURNED SPECIAL GENERAL MEETING	
		EXPENSES:—	
		„ Fees and Fares of Delegates	367 3 11
		„ Ditto E.C. Delegates' Revision Committee and Auditor	30 3 2
		„ Reporting Expenses	19 8 6
		„ Hire of Hall (balance of)	9 17 6
		ANNUAL GENERAL MEETING EXPENSES:—	
		„ Delegates' Fees and Fares	330 18 0
		„ E.C. Delegates and Auditor	22 19 11
		„ Reporting Expenses	56 9 4
		„ Rent of Hall and Sundries	16 19 2
		„ Printing	7 2 1
			8,051 8 1
		CENTRAL AND LEGAL DEFENCE FUND:—	
		„ Legal Costs in 91 Inquests and Minor Cases	213 19 5
		„ Legal Charges: <i>re</i> Benson <i>v.</i> L. & Y. Ry.	50 0 0
		„ „ „ Blake <i>v.</i> M. Ry.	30 0 0
		„ „ „ Biggs, Swindon	64 12 2
		„ „ „ Brown <i>v.</i> L. & N. W.	22 15 7
		„ „ „ Chapman <i>v.</i> B.T.C.	12 5 6
		„ „ „ Dearden <i>v.</i> G.C.R.	17 11 8
		„ „ „ Dutton, Crewe	19 0 6
		„ „ „ Hallam, Stockport	10 8 8
		„ „ „ Jordan, Dunfermline	35 14 8
		„ „ „ Leach <i>v.</i> M. Ry.	14 1 6
		„ „ „ McLaughlin <i>v.</i> L. & L. Swilly Ry.	28 12 5
		„ „ „ Phillips, Whitland	13 18 0
		„ „ „ Reynolds <i>v.</i> M. Ry.	12 17 0
		„ „ „ Sharpe <i>v.</i> M. Ry. on account	60 0 0
		„ „ „ Searl <i>v.</i> McGaul	86 16 7
		„ „ „ Simister, Bushbury	15 0 9
		„ „ „ Stapleford <i>v.</i> M. Ry.	10 16 8
		„ „ „ Thomas, Abergavenny	10 10 0
		„ Sundry Charges by:—	
		„ Campbell, Wallace and Allen, Glasgow	147 11 5
		„ Chorlton and Sons, Manchester	139 17 7
		„ Meyrick and Davies, Cardiff	2,143 0 0
		„ W. R. Edmonds, Llanelly	26 1 7
		„ Gleeson, Dublin	8 16 0
		„ Pattinson and Brewer	574 2 3
		„ J. R. Stevenson, Dunfermline	15 10 6
		„ Postage Charges	11 10 0
		„ Assistance to Branches	68 8 5
			11,915 6 11
		„ Overspent, Dec. 31st, 1902	11,232 10 11
		„ Balance	4,989 13 4
			£28,137 11 2
	£28,137 11 2		

DONATION FUND.

10th Day.
No. 1—
continued

Dr.	£	s.	d.	Cr.	£	s.	d.
To Members' Contributions received from				By Payments to Members	1,436	4	2
Branches, Scale A. - - - -	2,802	5	1	„ Refunded to Colwick Junction Branch	135	19	11
„ Ditto Scale B. - - - -	825	11	8				
„ Balances from Branches - - -	58,404	3	1		1,572	4	1
				Balance - - - - -	60,459	15	9
	£62,031	19	10		£62,031	19	10

PROTECTION FUND ACCOUNT.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Dues received from Branches, Scale A.	7,904	18	6	By Grants to 9 discharged Members, Scale			
„ Ditto, Scale B. - - - -	1,167	9	4	A. - - - - -	450	0	0
„ Gift by Settmakers' Union towards Taff				„ Grants to 5 discharged members, Scale			
Vale Charges - - - - -	0	7	11	B. - - - - -	125	0	0
„ Refunded Sundry Branches - - -	0	15	3	„ Weekly Payments to 24 Members Re-			
„ Ditto Scottish Vigilance Committee -	5	0	0	duced - - - - -	95	12	2
„ Proportion of Interest on Balance -	1,186	1	0	„ Expenses of Movements, viz :—			
				Caledonian Railway (all grades) - -	9	3	0
				G.W. Railway Goods Guards - -	124	1	5
				G. C. Railway Goods Guards - -	18	12	3
				G. C. Railway Signalmen - -	14	7	10
				G. N. Railway Loco - - - -	70	7	7
				G. N. Railway Pass Porters - -	8	18	7
				Midland Railway Goods Guards - -	45	11	10
				Midland Railway Firemen - -	1	14	7
				N. E. Railway Firemen - - -	33	14	1
				N. E. Railway Signalmen - -	31	4	6
				G. W. Railway Loco - - - -	3	11	6
				G. W. Railway Signalmen - -	30	6	11
				Midland Railway Signalmen - -	27	17	2
				N. B. Railway Loco - - - -	13	14	5
				N. E. Railway (all grades) - -	103	10	11
				L. & L. Swilly Railway (Ireland) -	511	19	6
				Taff Vale Settlement - - - -	23,000	15	0
				Postage - - - - -	20	10	0
	10,264	12	0		24,740	13	3
„ Balance from December 31st, 1902	47,442	2	5	Balance - - - - -	32,966	1	2
	£57,706	14	5		£57,706	14	5

PARLIAMENTARY FUND.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Contributions, voluntary - - -	4	5	0	By Advances to Mr. W. Hudson - - -	250	0	0
„ „ as per rule - - - -	814	2	0	„ „ Mr. J. Holmes - - - -	200	0	0
				„ „ Mr. G. Wardle - - - -	150	0	0
				Total Expenditure - - - -	600	0	0
				Balance - - - - -	218	7	0
Total Income - - - - -	£818	7	0		£818	7	0

Goods Account.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Amount received for Goods sold - -	498	7	1	By Goods Purchased - - - - -	343	13	10
				„ Carriage of Parcels - - - -	5	9	9
				„ Stocktaking - - - - -	15	15	0
				„ Wages - - - - -	117	0	0
				„ Postage - - - - -	23	6	11
					505	5	6
„ Balance from December 31st, 1902	970	4	1	Balance - - - - -	972	5	8
	£1,477	11	2		£1,477	11	2

RESERVE FUND ACCOUNT.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Remainder of Interest on balances	-	718	5 11	By General Secretary's Parliamentary Expenses	-	266	2 3
				„ Special Notes of Parliamentary Proceedings	-	26	10 3
				„ Labour Representation Committee, Affiliation Fees	-	25	0 0
				„ Special Grants to—			
				Hospital Saturday Fund	-	20	0 0
				Morley House Convalescent Home	-	21	0 0
				Herne Bay Convalescent Home	-	21	0 0
				Dr. Barnardo's Homes	-	5	0 0
				Central Ophthalmic Hospital	-	10	10 0
				Ingram, E. (Wolverhampton)	-	2	0 0
„ Balance brought forward from Dec. 31st, 1902	-	2,894	16 1	Total Expenditure	-	397	7 6
				Balance	-	3,215	14 6
	£3,613	2	0			£3,613	2 0

OVERY'S ORPHANS' ACCOUNT.

DR.	£	s.	d.	CR.	£	s.	d.
To Balance brought forward from Dec. 31st, 1902	17	12	6	By Advanced Assistant Secretary on Orphans' Account	7	12	6
				Balance	10	0	0
	£17	12	6		£17	12	6

No. 2.—PROVIDENT FUNDS ACCOUNTS.

DISABLEMENT AND DEATH FUND ACCOUNT.

DR.		£	s.	d.	CR.		£	s.	d.
To Dues received from Branches, Scale A.		7,904	18	2	By Grants to 146 Members disabled by age and accident		3,304	0	0
„ Proportion of Interest on Balance		1,794	8	0	„ Death Allowances to families of 261 deceased Members		1,305	0	0
					„ Printing		3	6	0
					„ Postage		10	0	0
Total Income		9,699	6	11	Total Expenditure		4,622	6	0
„ Balance brought forward from Dec. 31st. 1902		71,777	10	9	Balance		76,854	11	8
		£81,476	17	8			£81,476	17	8

ORPHAN FUND ACCOUNT.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Dues received from Branches, Scale A.	3,952	8	11	By Weekly Payments to the Families of			
„ Proportion of Interest on balance	1,970	11	4	971 Deceased Members (as per Abstract	9,077	14	9
„ Proceeds of Subscriptions, Collections,				„ Postage	10	14	1
„ Concerts, Teas, and other Entertain-				„ Printing	269	15	6
ments	6,256	0	1	„ Sundries	1	5	0
Total Income	12,179	0	4	Total Expenditure	9,359	9	4
„ Balance brought forward from Dec.				Balance	81,642	5	11
31st, 1902	78,822	14	11				
	£91,001	15	3		£91,001	15	3

SICK FUND ACCOUNT.

Dr.	£	s.	d.	Cr.	£	s.	d.
To Entrance Fees - - - -	9	7	0	By Sick Pay to Members - - - -	1,424	13	7
„ Members' Contributions - - -	2,356	12	9	„ Accident Pay to Members - - -	521	7	10
„ Proportion of Interest - - -	74	13	11	„ Funeral Allowances - - - -	71	0	0
„ Refunded Sick Pay - - - -	1	7	6	„ Branch Secretaries' Poundsage - - -	54	6	11
				„ Entrance Fee Refunded - - - -	0	1	0
				„ Printing - - - - -	4	10	8
				„ Postage - - - - -	6	0	0
Total Income - - - -	2,442	1	2				
„ Balance brought forward from Dec. 31st, 1902 - - - -	2,987	18	2	Total Expenditure - - - -	2,082	0	0
				Balance - - - - -	3,347	19	4
	£5,429	19	4		£5,429	19	4

Appendix

10th Day
No. 1—
continued.

STREATHAM PROPERTY ACCOUNT.

Dr.	£ s. d.	Cr.	£ s. d.
To Rents received - - - - -	301 14 0	By Repairs - - - - -	52 14 5
		„ Ground Rents - - - - -	40 3 8
		„ Rates and Taxes - - - - -	58 1 3
		„ Income Tax - - - - -	11 15 10
		„ Fire Insurance - - - - -	2 9 6
		„ Collecting Rents - - - - -	13 4 6
		„ Interest to A.S.R.S. at 3½ per cent. - - - - -	77 0 0
		„ Depreciation - - - - -	40 0 0
„ Balance brought forward from Dec. 31st, 1902 - - - - -	1 2 2	Total Expenditure - - - - -	295 9 2
	£302 16 2	Balance - - - - -	7 7 0
			£302 16 2

STOCKWELL PROPERTY ACCOUNT.

Dr.	£ s. d.	Cr.	£ s. d.
To Rents received - - - - -	39 0 0	By Repairs - - - - -	0 3 3
		„ Ground Rent - - - - -	5 13 6
		„ Rates and Taxes - - - - -	9 15 0
		„ Income Tax - - - - -	1 18 9
		„ Fire Insurance - - - - -	0 4 6
		„ Collecting Rents - - - - -	1 19 0
		„ Interest to A.S.R.S. at 5 per cent. - - - - -	12 10 0
		„ Depreciation - - - - -	4 10 0
„ Balance brought forward from Dec. 31st, 1902 - - - - -	0 0 1	Total Expenditure - - - - -	36 14 0
	£39 0 1	Balance - - - - -	2 6 1
			£39 0 1

GENERAL CASH BALANCE SHEETS FOR THE YEAR ENDING DECEMBER 31st, 1903.

NAME OF FUND.	Balances, Dec. 31st, 1902.	Income for Year 1903.	Totals.	Overspent, Dec. 31, 1902.	Expenditure for Year 1903.	Balances, Dec. 31, 1903.	Totals.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
TRADE UNION FUNDS—No. 1 ACCOUNT:—							
General Administration—Central and Legal - - - - -	—	28,187 11 2	28,187 11 2	11,232 10 11	11,915 6 11	4,989 13 4	28,187 11 2
Donation - - - - -	—	62,081 19 10	62,081 19 10	—	1,572 4 1	60,459 15 9	62,081 19 10
Protection - - - - -	47,442 2 5	10,264 12 0	57,706 14 5	—	24,740 13 3	32,966 1 2	57,706 14 5
Parliamentary - - - - -	—	818 7 0	818 7 0	—	600 0 0	218 7 0	818 7 0
Goods Account - - - - -	979 4 1	498 7 1	1,477 11 2	—	505 5 6	972 5 8	1,477 11 2
Reserve - - - - -	2,894 16 1	718 5 11	3,613 2 0	—	397 7 6	3,215 14 6	3,613 2 0
Overy's Children - - - - -	17 12 6	—	17 12 6	—	7 12 6	10 0 0	17 12 6
TOTALS - - - - -	51,333 15 1	102,469 3 0	153,802 18 1	11,232 10 11	39,738 9 9	102,331 17 5	153,802 18 1
PROVIDENT FUNDS—No. 2 ACCOUNT:—							
Disablement and Death - - - - -	71,777 10 9	9,699 6 11	81,476 17 8	—	4,622 6 0	76,854 11 8	81,476 17 8
Orphan - - - - -	78,822 14 11	12,179 0 4	91,001 15 3	—	9,359 9 4	81,642 5 11	91,001 15 3
Sick - - - - -	2,967 18 2	2,442 1 2	5,429 19 4	—	2,032 0 0	3,347 19 4	5,429 19 4
Streatham Property - - - - -	1 2 2	301 14 0	302 16 2	—	295 9 2	7 7 0	302 16 2
Stockwell Property - - - - -	0 0 1	39 0 0	39 0 1	—	36 14 0	2 6 1	39 0 1
TOTALS - - - - -	153,589 6 1	24,661 2 5	178,250 8 6	—	16,395 18 6	161,854 10 0	178,250 8 6
SUMMARY:—							
No. 1 Account - - - - -	51,333 15 1	102,469 3 0	153,802 18 1	11,232 10 11	39,738 9 9	102,331 17 5	153,802 18 1
No. 2 - - - - -	153,589 6 1	24,661 2 5	178,250 8 6	—	16,395 18 6	161,854 10 0	178,250 8 6
GROSS TOTALS - - - - -	204,923 1 2	127,130 5 5	332,053 6 7	11,232 10 11	56,134 8 3	264,686 7 5	332,053 6 7

Audited and found correct,

J. R. BELL,
JAMES A. BOOTH, } Auditors.

JAMES WILLIAMS, Assistant Secretary.

TABLE SHOWING THE NUMBER OF MEMBERS AND BENEFITS PAID, &c., SINCE 1872.

Appendix.
—
10th Day.
No. 1.
continued.

Year.	No. of Mem- bers.	Paid for Legal Assistance.	Paid to Mem- bers out of Employment.	Paid from Protection Fund.	Superannua- tion and Death Grants.	Paid to the Orphans of Members.	Total Funds at end of each Year.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1872	17,247	—	108 13 4	†1,004 19 3	—	—	2,569 2 0
1873	15,830	150 0 0	117 0 3	—	20 0 0	—	5,028 10 5
1874	14,254	167 0 3	460 12 3	—	29 2 5	—	9,393 5 0
1875	13,018	390 13 9	809 7 10	—	150 7 6	81 0 0*	12,243 7 3
1876	13,440	430 12 3	610 9 6	—	310 15 9	180 17 0*	16,159 18 8
1877	12,815	460 19 3	640 8 1	—	623 4 9	100 16 10*	18,715 15 7
1878	13,543	490 18 8	907 19 2	—	1,161 19 9	101 4 1*	22,371 18 8
1879	11,516	484 1 2	1,311 0 4	—	2,013 3 0	76 7 0*	24,117 17 7
1880	8,589	183 16 2	785 14 7	—	2,044 2 3	169 5 0	26,013 9 7
1881	6,878	804 12 0	586 6 0	48 6 0	4,860 18 9	415 5 8	24,525 3 0
1882	6,321	544 1 4	479 18 3	158 5 0	833 18 2	597 7 11	27,176 9 6
1883	8,077	493 10 4	370 4 10	109 10 9	1,003 15 4	672 14 4	36,932 4 5
1884	8,460	391 11 2	427 12 7	163 1 9	1,294 0 11	791 2 4	42,851 2 7
1885	9,052	311 8 4	515 15 6	74 8 1	1,404 1 6	1,155 15 8	50,788 11 5
1886	9,609	378 17 7	551 15 6	274 5 11	1,444 7 9	1,467 3 4	55,708 14 4
1887	10,830	1,145 10 5	2,068 5 9	7,076 13 11	1,002 15 1	1,677 6 10	62,186 8 11
1888	12,080	353 2 9	705 17 10	901 9 10	1,610 0 1	1,910 18 5	73,733 17 3
1889	19,585	189 3 1	599 12 11	461 3 6	1,820 7 0	2,186 14 11	81,763 11 6
1890	26,360	1,083 11 9	1,018 18 7	6,743 18 0	1,918 10 2	2,286 4 7	98,114 10 7
1891	29,820	1,078 1 9	1,762 6 1	4,191 18 5	2,570 0 0	2,872 8 1	110,584 9 3
1892	30,228	560 4 2	5,663 13 7	1,445 17 3	2,573 16 9	3,610 5 2	120,826 16 3
1893	33,826	783 1 3	5,046 7 9	10,010 19 7	3,013 1 1	3,803 16 5	122,870 12 8
1894	40,735	1,267 10 6	2,951 8 5	2,292 17 5	3,272 7 11	4,257 11 6	140,339 12 6
1895	38,119	745 13 1	3,217 6 4	2,260 13 0	2,645 16 0	5,089 5 9	158,725 12 0
1896	44,709	840 1 5	2,715 4 10	2,528 13 4	2,809 14 1	5,300 6 0	178,842 17 7
1897	85,928	930 5 6	3,118 15 4	13,643 2 11	3,341 14 3	5,615 5 0	197,922 12 5
1898	54,426	2,005 14 5	16,331 12 7	12,375 2 5	3,235 0 0	6,786 5 5	199,303 0 9
1899	59,819	1,962 15 9	2,882 19 11	2,468 19 9	3,690 0 0	6,829 2 3	224,389 17 2
1900	62,023	2,507 3 0	3,215 12 7	6,152 14 11	3,305 0 0	8,380 15 7	245,055 10 2
1901	55,943	10,793 4 2	3,230 15 5	1,485 3 3	3,770 0 0	8,629 12 9	264,098 13 5
1902	53,453	13,400 13 9	3,153 11 5	1,118 10 11	3,985 0 0	8,882 17 1	279,447 0 4
1903	52,355	3,795 10 5	3,233 16 0	24,740 13 3	4,622 6 0	9,077 14 9	278,842 14 0
		49,123 9 5	69,597 3 4	101,731 8 5	66,079 6 3	93,005 9 8	

* These sums were remitted by the General Secretary to the Derby Orphanage, exclusive of remittances by branches.

† Specially raised by Levy.

2.—EXTRACT from the RULES of the AMALGAMATED SOCIETY OF RAILWAY SERVANTS OF ENGLAND, IRELAND, SCOTLAND, AND WALES.

(Handed in by Mr. A. Beasley on the Tenth Day. See Question 971.)

AMENDED RULES OF THE AMALGAMATED SOCIETY OF RAILWAY SERVANTS OF ENGLAND, IRELAND, SCOTLAND, AND WALES.

RULE I.

NAME, OBJECTS, AND CONSTITUTION OF THE SOCIETY.

1.—The society shall be called the Amalgamated Society of Railway Servants of England, Ireland, Scotland, and Wales.

Objects.

2.—The objects of the society shall be to improve the condition and protect the interests of its members; to endeavour to obtain and maintain reasonable hours of duty and fair rates of wages; to promote a good understanding between employers and employed, the better regulation of their relations, and the settlement of disputes between them by arbitration, or, failing arbitration, by other lawful means; to provide temporary assistance to members when out of employment through causes over which they have no control, or through unjust treatment; to provide legal assistance when necessary in matters pertaining to the employment of members, or for securing compensation for members who suffer injury by accidents in their employment occasioned by the negligence of their employer, or of those for whom their employer is liable; to aid the young orphan children of all members; and to use every effort to provide for the safety of railway work and of railway travelling. Also to provide a grant of money in case of members permanently disabled or killed by accident, or when by reason of old age they cannot follow their regular employment.

Also to enable such members as voluntarily desire it to provide funds for their relief in sickness or temporary disablement, and for their respectable interment.

Constitution.

3. Any person permanently employed, or any extra man continuously employed for a period of twelve months, on any railway in Great Britain or Ireland, shall be eligible for admission as a member into this society; but when absent permanently from these countries he shall be suspended from all benefits.

Head Offices.

4. The head offices of the society shall be at 72, Acton Street, Grays Inn Road, London, W.C., or such other place as the Annual General Meeting shall deem expedient.

RULE II.

GOVERNMENT OF THE SOCIETY.

Constitution of Annual General Meeting.

1. For the supreme government of the society there shall be an Annual General Meeting, consisting of sixty representatives, the President (or in his absence a Vice-President), and General Secretary.

Election of Representatives.

2. The representatives shall each be elected by the members of branches grouped together in a locality and in such manner as shall as nearly as is possible secure equal representation of all members. The manner in which the branches shall be grouped for this purpose shall be decided on by the Executive Committee.

Time and Place of A.G. Meeting.

3. The Annual General Meeting shall be held in October of each year, and be moveable. Its sittings shall commence at 9.30 a.m. on the first Tuesday in October, and terminate not later than 5.30 p.m. on the Friday following. It shall at each sitting decide the next place of meeting, but shall not be held twice in one place within five years. A special general meeting, if absolutely necessary, may be convened by the Executive Committee, or, if desired, by a majority of the branches of the society.

Powers of A.G. Meeting.

4. The Annual General Meeting shall have power to amend, rescind, or make rules every three years (except an alteration is recommended by the Executive Committee in the interim), to remove from office any officer, to elect any officer (except the General Secretary, who shall be elected

by suffrage of the members), to distribute for the members' benefit the funds of the society, to decide all appeals against the decision of the Executive Committee, and to inaugurate any movement, or decree any proceedings in the interests of the society and its members. It shall govern the Executive Committee.

5. The cost of the Annual General Meeting shall be met from the General Management Fund; but a separate account thereof shall be published for the information of members.

6. Each representative shall receive 12s. 6d. for each day's attendance and the time actually necessary for travelling to and from the place of meeting, and be allowed third-class railway fare, the same to be paid from the fund formed, as per Clause 5.

RULE III.

GENERAL MANAGEMENT BY AN EXECUTIVE COMMITTEE.

1. For the general management of the society there shall be an Executive Committee, consisting of the President (or in his absence a Vice-President), General Secretary, and thirteen representatives chosen by the members of the different districts. Seven representatives in addition to the chairman shall form a quorum with power to act.

2. The thirteen representatives on the Executive Committee shall be chosen annually by ballot or as otherwise determined by the Annual General Meeting. The society shall be formed into thirteen electoral districts for this purpose only. The Executive Committee shall be chosen from each district annually, and no branch shall be represented thereon more than two years in succession, neither shall any branch, having had such direct representation be eligible to nominate, or any member of that branch be allowed to sit as the nominee of any other branch until after the expiration of three years. The candidate receiving the largest number of votes shall hold office for the ensuing twelve months only. Should a vacancy occur before the expiration of twelve months, it shall be filled for the remainder of the year by the candidate who obtained the next highest number of votes to the successful candidate at the election, but such attendance as a substitute for one duly elected, provided such attendance does not cover more than two Executive sittings, shall not debar any member for serving the full two years as allowed above, neither shall such prevent any branch from nomination for the two years as stated.

3. The meetings of the Executive Committee shall be held quarterly at the head offices of the society. The President or General Secretary may summon a special meeting should one be necessary. In the event of the President being absent, a Vice-President may preside, or the Executive Committee shall appoint a Chairman from among the members of the Committee.

4. The powers of the Executive Committee shall be limited to the management and superintendence of the society. It shall take every means to secure the observance of the society's rules, to perform all duties allotted to it by the said rules, to further the objects of the union, and to protect its funds from misappropriation. It shall direct the action of the trustees, and be responsible for the right administration of all the general funds dealt with at the General Office. It shall suspend any member obtaining benefits by misrepresentation or improperly receiving the same. It shall award the benefits of the Orphan Fund, and administer the rules thereof. It shall diligently fulfil the duties prescribed for the protection of members, and

seek first to settle disputes by arbitration; when authorised by the members, it shall represent them in disputes about hours and wages, and administer the Protection Fund in the manner laid down in Rule 16. It shall decide the claims and regulate the affairs of superannuation as specified in Rule 12, having power to determine questions on which that rule is silent. It shall institute legal proceedings on behalf of the members of the society, and direct the trustees to take legal proceedings against any officer of the society who misappropriates the funds of the union. It may remove any incompetent or insubordinate branch officer, and suspend members acting contrary to rule. It shall inflict on all branches and branch officers the fines for neglect of rules, etc., authorised in this book of rules. It shall have power to reverse the decision of a branch, to decide appeals made by members, to appoint special auditors to examine at any time the books and accounts of a branch, or any accounts relating to the society's funds. It shall have authority to interpret doubtful rules. It shall cause the Assistant Secretary to present a quarterly financial statement, which shall be printed and issued to the branches; it shall also be responsible for the due issuing of the yearly report, and for the requisite arrangements for holding the Annual General Meeting, and send two of their bodies as representatives to such Annual Meeting, but shall not be allowed to vote on any matter submitted for consideration. It shall provide all branches with necessary and uniform books and stationery. It shall direct the labours of the General Secretary for the best interests of the society. It shall suspend and prosecute the General Secretary if found guilty of fraud. It shall have power also to suspend the General Secretary for absence from or gross neglect of duty, and report to the Annual General Meeting (through the President) any neglect or incompetency of the General Secretary; but he shall have the benefit of appeal to the Annual General Meeting against any decision of the Committee. The Executive Committee shall have power to appoint delegates to represent the society at Annual General Meeting, Conferences, and other meetings, such delegates to have the right of speaking on all matters in which the Executive Committee's decisions are concerned.

5. The decision of the Executive Committee shall be binding on members and branches, unless appeal against it has been submitted to the judgment of the Annual General Meeting. No question shall be submitted to the members or branches to be voted on a second time within the same year.

6. Each Executive Committee-man shall receive 12s. 6d. for each day's attendance at the Executive Committee, and the time actually necessary for travelling to and from the place of meeting, and third-class railway fare, the same to be paid from the General Management Fund.

RULE IV.

GENERAL SECRETARY.

1. The General Secretary shall have a full knowledge of the society and of railway work in every department, and shall be competent to discharge all duties assigned to him by the rules, the Annual General Meeting, and the Executive Committee. He shall remain in office during the will and pleasure of a majority of the members, who shall, through the Annual General Meeting, have power to call on him to resign. He shall be and remain a member of the society.

2. Each branch of the society having sixty good members shall have power to nominate a candidate for the office of General Secretary, which nomination must be seconded by another branch of the society to become valid. Nominations must be sent to the President of the Society twenty-eight days prior to the election, and shall be submitted by the Executive Committee to the whole of the members of the society for their votes. The candidate who has the majority of votes shall be elected General Secretary and retain office as per Clause 1 of this rule. No candidate shall be eligible unless he is a *bona fide* member of the society.

3. The General Secretary shall obey the orders and be under the control of the Executive Committee. He shall keep all documents and papers belonging to his office in such form as the committee may direct, and devote the whole of his time to the business of the society.

4. He shall attend the Annual General Meetings and all meetings of the Executive Committee, and record the minutes. He shall have the right to speak on any business of the Annual General Meeting or Executive Committee but shall have no vote.

5. He shall conduct the general correspondence of the society, keeping a copy of all letters written by him, and the letters received, and submit to the Annual General Meeting and Executive Committee all correspondence requiring the attention of those bodies.

6. For the transaction of business he shall attend at the General Office each day (Sunday excepted) from 9 a.m. to 1 p.m., and from 2 p.m. to 5 p.m., excepting on Saturday, when the hours of attendance shall be from 9 a.m. to 2 p.m.

7. He shall be responsible for the keeping of a general register of all the members of the society, stating scale, age, date of admission, and registered number of each member, together with the grade and railway on which he is employed. He shall be responsible for a correct record of the date and cause of death, superannuation, or exclusion of all members, together with the date and name of members transferred, and the number in lieu of name of branches transferring. He shall also be responsible for the keeping of a separate register of the members subscribing to each branch.

8. He shall prepare a quarterly statement for the Executive Committee, which, with all resolutions rejected or adopted, with the mover and seconder's name, and how each member voted, attached thereto, shall be printed and issued by him to the branches within twenty-one days after each meeting; failing to do so in thirty-one days he shall be fined the sum of ten shillings.

9. The General Secretary shall receive a salary not exceeding £250 per annum, payable quarterly. Should there be any change in the person of the General Secretary, the incoming officer shall not be paid a salary of more than £200 for the first year, and, subject to the approval of the Annual General Meeting from year to year, his salary shall be increased £10 per year until £250 has been reached. Gas and fire shall be found for office purposes only.

10. The Executive Committee shall engage the permanent clerks to assist the General Secretary at salaries varying from £1 10s. to £2 10s. per week maximum, according to the classification of duties as decided by that body. The General Secretary shall, when necessary, employ casual assistance at a salary not exceeding £1 10s. per week. Office hours to be from 9 a.m. to 5 p.m. the first five days of the week, and on Saturdays their duties shall terminate at 2 p.m. All officers, clerks, and others employed at the General Offices must be members of a *bona fide* Trade Union. The Executive Committee to see that every such person is a free member at their first meeting after each Annual General Meeting, and that in all future appointments of permanent officers and clerks, it shall be a condition of employment that those appointed are, and continue to be, members of the society.

11. When there is a necessity for the attendance of the General Secretary at any place, he shall charge his expenses to the General Management Fund, and submit an account of the same to the next meeting of the Executive Committee.

12. The General Secretary shall give security for £200, the premium to be paid from the General Management Fund.

13. In resigning or being discharged, the General Secretary shall give or receive three months' notice, or one month's salary. If found guilty of fraud, absent from or gross neglect of duty, or incompetency, he shall be subject to suspension by the Executive Committee. The Executive Committee shall institute legal proceedings against him in the event of fraud.

14. A member when elected General Secretary shall be paid the reasonable expenses attending the removal of himself and family to the place in which the General Office is situated from the General Management Fund, such expenses to be sanctioned by the Executive Committee.

15. The books of the Trade Union and the names of the members shall be open to the inspection of any member or person having interest in its funds.

10th Day.
No. 2—
continued.
Attendance
General and
Executive
Meetings.

Correspondence

Office Hours.

Quarterly
Statement.

Salary.

Assistance, etc.

Travelling
Expenses.

Guarantee.

Resignation,
Dismissal, and
Suspension.

Removal.

Inspection of
Accounts.

Appendix.

10th Day.
No. 2—
continued.Assistant and
Organising
Secretaries.

Duties.

RULE V.

ASSISTANT AND ORGANISING SECRETARIES.

1. There shall be an assistant and four organising secretaries appointed by the Annual General Meeting. In the event of a vacancy occurring, the Executive Committee shall arrange for the performance of duties until the following Annual General Meeting.

2. The Assistant Secretary shall act under the directions of the General Secretary and Executive Committee, and assist in the correspondence and general work of the office, and be held responsible for any department entrusted to his charge. In the absence of the General Secretary he shall be responsible for the proper keeping of the General Office register, and have sole charge of the Head Offices and transact the business. He shall attend the Annual and Executive Committee Meetings if required. He shall have control of and be responsible for the finances of the General Office. He shall attend the Finance Committee Meetings and record the minutes thereof. He shall deliver over all moneys received from the branches to the General Treasurer. He shall prepare a quarterly financial statement for the Executive Committee. He shall prepare the Yearly General Statement required by Section 16 of the Trades Union Acts, 1871, and supply the same to the Registrar by the time appointed, and copies of the same to the branches of the society during the month of March in each year. He shall also prepare an Annual Report, including Financial Statements of the whole society, giving therein the attendances of the Executive Committee-men, the dates and places of the branch meetings, the names of honorary members, and a full report of the society's progress, and report at the same time all branches which have not made the necessary returns, etc., to the General Office. He shall audit the branch balance sheets. He shall give security for £200, the premium to be paid from the General Management Fund.

The organising secretaries shall act under the control of the Executive Committee, visit such branches and places as the interest of the society and members may require, attend at inquests and Board of Trade enquiries, and reside wherever most convenient for the society's work. When attending branch meetings they shall have power to examine the books, and report upon the same to the Executive Committee. In the absence of other engagements, they shall act as assistant secretaries to the society, and their hours of duty shall be the same as those of the General Secretary. The organising secretaries shall render to the Executive Committee, on a form provided for that purpose, a statement of their travels and attendances during each quarter; and their visits to each place shall be certified by the signature of a branch officer thereat. They shall attend the Annual General and Executive Committee Meetings if required; but shall not be eligible to be elected as representatives to the Annual General Meeting. They shall be subject to suspension by the Executive Committee for neglect of duty.

Salary.

3. The salaries of the assistant and organising secretaries shall be fixed by the Annual General Meeting.

4. "A permanent Secretary of the society shall be appointed for Ireland, whose duty shall be to visit all branches for the purpose of instructing all officers in their duties, and advising them as occasion may require; to institute new branches, and devote his time generally to the extension of the society. He shall attend inquests, Board of Trade and other inquiries, when the interest of the members requires it. He shall attend to cases of grievances of members, and take up with the companies' cases which may be referred to him by any branch of the society, and render every possible assistance in all movements for bettering the condition of the members."

RULE VI.

AUDITORS.

Auditing
General Office
Accounts.

1. The accounts of the General Office shall be audited each half-year by two auditors appointed by the Annual General Meeting, to whom the Assistant Secretary shall produce all books and papers of the General Office necessary for a complete examination of the society's accounts. The senior auditor shall retire each year, and shall not be again eligible for re-election within a period of three years. The amount of remuneration for their labour to be left to the

Executive Committee. The senior auditor shall attend the Annual General Meeting, and be paid at the same rate as the delegates. The junior auditor shall commence his duties at the General Office in auditing the General Office accounts at the half-year ending June in each year;

RULE VII.

MANAGEMENT AND CONSTITUTION OF BRANCHES.

1. Each branch of the society shall have for its management a chairman, vice-chairman, secretary, check steward, treasurer, three trustees, and a committee of not less than seven members. Also (when the branch considers it necessary) two stewards shall be appointed to direct the secretary in any important business during the intervals of the branch committee meetings, to look up members going in arrears, and to supervise the affairs of the branch, reporting the same to the following branch committee meetings. Collectors may be appointed to collect the contributions of members in outlying districts, and those who are unable to attend the branch meetings. One or more collectors should also be appointed to obtain subscriptions from the public in aid of the Orphan Fund, as per Rule 17.

Officers of
Branches.

2. Should twenty railway servants in any locality desire the formation of a branch of the society, and forward a request signed by such persons to the General Office, the General Secretary shall instruct the organising secretary, or the nearest branch secretary, to take the necessary steps for opening a branch. Each new branch shall be opened by a dispensation from the Executive Committee.

Opening New
Branches.

3. The funds of each and every branch shall be the common property of the society, and shall only be applied for the purposes and in the manner prescribed in these rules; any branch seceding from the society, or any branch which is dissolved, shall thereby forfeit every claim to the possession, and its trustees and officers to the administration of the funds of the branch, which shall become the property of the remaining members of the society. All moneys, books, and other property belonging to the society held by any branch which shall secede from the society, or be dissolved, or be reduced below twenty members, shall be delivered to the General Secretary for the general fund trustees, or forwarded to the General Office by the officers of such branch, together with a detailed account of all income and expenditure. Failing which the General Secretary, for the Executive Committee, shall take proceedings before the Registrar of Friendly Societies (in cases of savings bank deposits), or in any suitable court of law, for the obtaining or recovery of the funds, etc., held by any such branch. Should the remaining members of a branch, reduced below twenty, desire to be transferred to any one branch of the society, then the funds and other property belonging to the said branch shall be remitted to the branch receiving the transferred members, subject to the approval of the Executive Committee.

Funds Common
Property.

4. Each branch shall make bye-laws for the government of its local affairs; such bye-laws to be in accordance with the general rules, and approved of by the Executive Committee. In the interval of the Executive Committee Meetings the General Secretary shall be empowered, on behalf of the Executive, to approve such bye-laws.

Bye-laws.

5. Each branch shall have power to form sick, accidental, or death benefit funds for the benefit of its members. (Rules of "The Sick and Burial Fund" are appended under Rule 21.)

Benefit Funds.

6. The quarterly meetings of each shall be the last meetings in March, June, September, and December, to which all members owing more than one month's contributions at the last meeting shall be summoned. Any member owing more than two months' contributions and not clearing the books shall be fined twopence, the same to go to the Branch Management Fund. The branch shall have the power to remit the fine in case of illness. Each branch shall have power to call special meetings when necessary. (Or such special meetings may be called by the chairman as provided in Clause 3 of Rule 8.)

Quarterly
Special
Meetings.

7. Any branch having occasion to complain of the conduct of the Executive Committee shall instruct the General Secretary to bring the case before the Annual General Meeting. Any branch having occasion to complain of the neglect of the General Secretary shall do so to the Executive Committee.

Complaints of
Branches.

Branches
requiring
Assistance.

8. Any branch unable to meet the claims made upon it shall apply to the Executive Committee for assistance, and send with the application a correct detailed statement of its income and expenditure. The Executive Committee shall have power to assist such branch from the central fund to such an extent as the Committee consider necessary, providing the statement of the branch is satisfactory.

Issuing
Circulars.

9. No branch shall issue or entertain any circular or address relating to the society in general (*except it be a proposal to alter the rules*), or any branch thereof, unless such circular or address is sanctioned by the Executive Committee or the General Secretary. Any member or members violating this rule shall be fined 10s. each, and suspended from all benefits until one month after such fine or fines are paid.

Disqualification
and Suspension
of Branches.

10. Any branch which has not paid to the General Office the quarter dues or moneys required to be paid by Rule 9, or has failed to send to the General Office its half-yearly or yearly balance sheet or quarterly register return within one month from the dates at which they should be paid or sent, shall take no part in the society's business, and the members of such branch shall be suspended from benefit until the dues or balance sheets and quarterly register returns are received at the General Office.

Books and
Stationery.

11. All necessary books and stationery for the use of each branch shall be obtained from the General Office.

Branch
Returns.

12. Each branch is responsible for the sending in of the half-yearly and yearly balance sheets and register of members within twenty-eight days after the close of each half-year and year. For each neglect a fine of 2s. 6d. shall be inflicted by the Executive Committee on the branch.

Councils.

13. Branches in any locality may form themselves into a council for the purpose of furthering the interests of the society, the expenses of such council to be defrayed by each branch which affiliates with the council paying a proportionate contribution from the Branch Management Fund, except such expenses as are otherwise provided for by rule.

RULE VIII.

BRANCH OFFICERS AND THEIR DUTIES.

Election
and Conditions

1. All officers shall be elected and retire at the half-yearly meetings, and hold office for six months. Members alone shall be eligible to hold office, but no member suspended from benefit shall continue to hold or be elected to office. No member shall hold two offices, unless by request of the branch committee, for the transaction of temporary business. Candidates for office must be proposed and seconded by two free members; the candidate who has a majority of votes shall be elected. All officers on retiring from office shall be eligible for re-election, but may claim exemption for six months.

Dismissal and
Resignation.

2. Should any officer be incompetent, or fail to perform his duty, or act contrary to the interests of the society, he shall be dismissed, and the branch shall elect another in his place. The branch secretary in resigning shall give one month's notice, or forfeit one month's salary; and any officer leaving his branch or the society shall have his accounts at once audited, and deliver up to the branch all property belonging to the society; failing to do so, he shall be expelled and prosecuted according to law, and another officer shall at once be appointed in his place.

Chairman.

3. The Chairman shall preside at all meetings of the branch, and conduct the meetings with propriety and order. He shall sign all minutes of the branch and all official documents, and, through the secretary, order special meetings of the branch or of the committee when necessary, or on request of twelve free members.

Vice-Chairman.

4. The vice-chairman shall assist the chairman in conducting the business of the branch meetings and preside in the chairman's absence.

Secretary.

5. The branch secretary shall keep all books, accounts, etc., belonging to his office in an intelligible manner, perform all duties devolving upon him by these rules, conduct the correspondence of the branch, attend all branch and committee meetings, and take the minutes of the same, and forward to the General Office, within seven days of each branch or special meeting, all application forms of accepted members, together with the clearance forms of all members accepted by transfer.

He shall keep in a book provided for that purpose (and shall each quarter forward to the General Office) a register

of those members transferred, excluded, or expelled, with the date and cause of the same. The return shall also give the amount of benefit paid to each member. He shall supply the General Office with a balance sheet, showing the income and expenditure of the branch for the half-year ending June, and also an annual balance sheet showing the income and expenditure for the year, which shall be supplied to the members of the branch. All balance sheets and returns to be forwarded within twenty-eight days after the close of the half-year or year; failing which a fine of 2s. 6d. for each omission shall be inflicted on the branch. The Executive Committee have power to remit such fines should there be a justification for so doing. In each report the names and addresses of the chairman, treasurer, trustees, and meeting house shall be given, and notify any change within twenty-eight days thereof, to the General Office.

He shall inform the Assistant Secretary every quarter what money is held by the treasurer and the amount deposited with the bank; failing to do so he shall be fined 2s. 6d. When required by the General Secretary he shall obtain and forward to the General Office the branch bank book.

He shall summon all members who were more than one month in arrears at the previous meeting to the quarterly meeting. He shall have for his salary one-third the amount allowed for branch management, exclusive of entrance fees. He shall also receive sixpence of each pound paid by members of the Sick and Burial Fund for keeping the accounts of the fund.

6. The check steward shall keep an account of the Check Steward's amount paid by each member each meeting night, and see that it tallies with the amount entered in the secretary's book.

7. The treasurer shall receive from the secretary the money received on account of the branch, and hand over to the trustees all moneys in excess of the amount allowed for the current payments of the branch, such sum not to exceed £10. He shall make any payment authorised by an order signed by the chairman and secretary, excepting the payment of donation benefit, when the secretary's signature shall be sufficient. He shall keep an account of the amounts he has received and paid, producing it and all other documents he may hold when necessary.

He shall deliver up the bank book to the branch secretary on an order from the General Office; and shall receive such remuneration as the branch may decide on.

8. The trustees shall be held responsible for the safe keeping of the funds entrusted to their care, and hold such funds subject to Rule 7, Clause 3, and Rule 9, Clauses 1 and 3. In opening an account—which shall be made in the name of the society—the money shall be deposited by the whole of the trustees; and no withdrawal shall be made but in the same manner, and then only by the sanction of a majority of members at a branch meeting, and of the chairman and secretary, or by order of the Executive Committee. The trustees shall, within twelve hours of the withdrawal, place the same in the hands of the treasurer.

9. The accounts of each branch shall be audited by two auditors appointed at the half-yearly meeting by the branch, such audit to be made in time to allow the secretary to forward his returns at the proper date, and the accounts so audited shall be laid before the next meeting of the branch.

10. The branch committee shall, under the direction of the chairman and secretary, superintend the business of the branch, and co-operate with the Executive Committee in carrying out the rules of the society. The committee shall meet as often as required, and be summoned by the secretary. Five members, in addition to the chairman and secretary, shall form a quorum. The secretary shall have no vote, and the chairman only the casting vote, but both shall have the right of speaking.

11. The Orphan Fund collectors shall use their best endeavours to obtain subscriptions and donations from the public for the Orphan Fund. They shall enter each amount so obtained in a collecting book supplied for that purpose. At the end of each quarter they shall pay to the secretary of the branch for transmission to the General Office the total amount collected, submitting at the same time the collecting books for examination and signature. When called on by the branch, or by the Executive

Appendix.
—
10th Day.
No. 2—
continued.

Appendix. Committee, they shall give up possession of the collecting books, and any moneys in their hands, with any papers supplied for the duties of the office.

10th Day.
No. 2—
continued.

RULE IX.

FUNDS OF THE SOCIETY.

Branch Funds :
How Deposited
or Invested.

1. Each branch shall, through the trustees, and in the name of the society, deposit in the Post Office Savings Bank, or invest in Government or real securities in Great Britain or Ireland, or on the security of the rates of any county, borough, or parish, authorised to be levied and mortgaged by Act of Parliament, the funds of the society which it has in its possession, excepting a sum sufficient to meet the current demands (but not exceeding £10), which shall be retained by the treasurer. No portion of the society's funds shall be otherwise invested by any branch, and any investment other than in the Post Office Savings Bank shall not be effected until the sanction of the Executive Committee has been obtained.

Misappropriation of Branch Funds.

2. All moneys received from the members of the society to raise funds for the benefit of those who by these rules may become entitled thereto, shall not be applied otherwise than in the manner prescribed in these rules. The General Secretary shall have power to institute legal proceedings against any person or persons misapplying, withholding, or receiving by imposition, any part of the funds, for the recovery of the same, and the punishment of such person or persons.

Branch Members to make good Misappropriations.

Should any branch misapply any part of the funds, or devote them to any purpose not sanctioned by rule, or should it by neglect of rules fail to protect the funds entrusted to its care from misappropriation, the members of such branch shall refund or make good all funds so misapplied or misappropriated, and remain suspended from every benefit until the refundment has been effected.

Trustees of General Funds.

3. Three trustees to the general funds shall be appointed by the Annual General Meeting, each of whom shall hold office during the pleasure of the society, and shall act under the direction of the Executive Committee.

Treasurer to General Funds.

4. The Treasurer to the general funds shall be elected by the Annual General Meeting, and retain office for twelve months, and receive £10 per year as his salary. He shall, with the Finance Committee, see that all moneys of the Society received at the General Office by the Assistant Secretary are weekly deposited with the National Provincial Bank of England, in the name of the society and of the trustees. The treasurer shall be held responsible for the correct keeping of the banker's pass-book. He shall see that the pass-book is made up each fortnight in time for the Finance Committee meeting. He shall, when required by the trustees or the Executive Committee, render a true account of all the society's moneys received and paid by him; and shall, when required by the Annual General Meeting or the Executive Committee, deliver to whom may be appointed all moneys and property belonging to the society.

All withdrawals from the bank shall be made by cheques, signed by any two of the trustees, and countersigned by the Assistant Secretary.

Finance Committee.

For the supervision of the receipts and expenditure of the general funds there shall be a Finance Committee, consisting of the three Trustees, the General Treasurer, the Assistant Secretary, and two members who shall be appointed by the Annual General Meeting, and shall hold office from January 1st to December 31st. Any branch shall have power of nominating members of the society (who reside within ten miles of the General Office), as candidates for this office. The retiring officers shall not be eligible for re-election.

The Finance Committee shall meet every fortnight at the General Offices, or oftener if specially summoned by the Assistant Secretary. Three (including two of the trustees) shall form a quorum with power to act.

All expenditure of the general funds (except as hereinafter mentioned) must be first approved by the Finance Committee. No expenditure shall be effected otherwise than by cheques drawn on the National Provincial Bank, Bishopsgate Street, London, and no cheques shall be signed by the trustees except by the authority and at a meeting of the Finance Committee.

Every expenditure expressly authorised by the society's rules, or ordered by resolution of the Annual General

Meeting, or of the Executive Committee, must be regarded as already sanctioned, and each and every such authority shall be a sufficient warrant to the trustees to issue cheques; but the Finance Committee will see that all such expenditure has been properly applied.

At each meeting of the Finance Committee the Assistant Secretary shall present statements, showing therein the amount received for the general funds since the preceding meeting, the amount paid into bank, the expended amount of moneys drawn from bank, the balance at the bankers, and at the General Office, and a list of all claims awaiting payment. These statements shall be filed or recorded in a book for reference. The members of the Committee present at a meeting shall attach their signatures to such statements when approved, and also by their signatures certify the committee's sanction to all expenditure agreed upon.

So far as practicable, each payment exceeding £5 shall be by cheque, drawn in favour of the payee, and to his order. But the Finance Committee shall from time to time sanction the withdrawal of sums from the bank by cheques payable to the Assistant Secretary, sufficient to enable the latter officer to meet the constant claims for wages, travelling expenses, postage, and other sundry disbursements of general management. The Assistant Secretary will render an account to the committee of all money thus entrusted to him.

The committee are empowered to examine at each meeting the cash books kept by the Assistant Secretary, and the banker's pass-book, so as to ascertain that all moneys received have been paid into bank, and all expenditure properly applied. The committee shall also from time to time examine the securities and invested funds, and ensure their safe deposit. All such books and documents, with the bank cheque book, must be submitted to the committee when called for.

The Financial Committee shall give effect to any decision or instructions of the Annual General Meeting, or Executive Committee, in regard to the disbursement or investment of moneys.

Each member of the committee shall receive 3s. 6d. per attendance and third-class railway fare, in addition to payment for all time lost.

The Executive Committee shall have power to instruct the Trustees to invest any available balance of the General Fund in Government securities, mortgages on freehold or leasehold property, railway debenture stock, or on the security of any Colonial Government, or rates of any County, Borough, or Parish, authorised to be levied by Act of Parliament, and the Trustees may, at their discretion or on the direction of the Executive Committee, on lending money to any person being a member of the society on any mortgage security, notwithstanding any rule or statute limiting the powers of trustees in that respect, advance any sum not exceeding five-sixths of the value of the property at the time of making such advance, such value to be ascertained by valuation in the ordinary course of business. The Assistant Secretary shall cause to be given in the yearly financial statement a detailed account of all the society's investments at per cent.

Investment of Funds in Public Securities, &c.

5. For the support of the General Office and officers and the general management of the society, the expenses of the Annual General Meeting, for the legal defence of members, the assistance of weak branches, and any other lawful purpose, there shall be a General Management and Legal Defence Fund, towards which such proportion of the contributions received from the members shall be paid, as is hereinafter stated in clause 10. The fund shall be under the control of the Executive Committee, and used only for such purposes as are sanctioned by rule.

General Management Fund includes Legal Assistance and A.G.M. Expenses.

6. The branch secretary shall also forward any levy which shall be made by the Executive Committee or Annual General Meeting; such levy to be devoted to the purpose specified; the residue, if any, to go to the General Management Fund.

Levy.

7. A fund for superannuation purposes shall be formed at the General Office, from which all superannuation claims shall be paid. It shall be supported by such a proportion of the contributions of members and other moneys as are hereinafter stated in clause 10. Such moneys shall be invested in the manner prescribed by clause 4, and an account of the fund rendered to the members of the society each year. The fund shall be under the control of the Executive Committee.

Superannuation Fund.

Orphan Fund.

8. The Orphan Fund shall be formed at the General Office, and be supported by a contribution of one half-penny per member per week, remitted quarterly by the branches, and the donations and subscriptions of the public. From it shall be paid the weekly grants to the orphans of members as per Rule 17. The fund shall be under the control of the Executive Committee.

Protection Fund.

9. The Protection Fund shall be formed at the General Office, and be supported by a contribution of one penny per member per week, made through the branches, and remitted quarterly to the General Office. From it shall be paid the benefits stated in Rule 16. The fund shall be under the control of the Executive Committee.

Quarterly Remittances by Branches to General Office

10. Each branch shall, within twenty-eight days of the close of each quarter, remit to the General Office the following moneys, and the Assistant Secretary shall place them to the several accounts, viz. :—

SCALE A.

(a) The whole of the contributions of one penny per member per week paid to the Protection Fund.

(b) The whole of the contributions of one half-penny per member per week paid, and such subscriptions, donations, etc., as have been received for the Orphan Fund.

(c) One penny per week, to be devoted in such proportions as are necessary to General Management, Central and Legal Defence, and the expenses of the Annual General Meeting.

(d) One penny per week to the Superannuation Fund.

SCALE B.

(a) The whole of the contributions of one penny per week for general Management, Central and Legal Defence, and the expenses of the Annual General Meeting.

(b) One half-penny per week paid to the Protection Fund.

The branch secretary shall remit the foregoing moneys. Should he fail to do so within the time laid down, he shall be fined 2s. 6d. for each omission.

11. Within twenty-eight days of the end of each quarter, each branch secretary shall remit to the General Office the amounts paid by the members as contributions to the Voluntary Sick and Funeral Fund.

12. For the management of each branch there shall be a Branch Management Fund, to which the entrance fees of new members and three farthings of the weekly contributions received from members in Scale A and B shall be transferred. From this fund every management expense of the branch shall be paid, and an account of it shall be rendered to the General Office, and to the members each half-year. Three farthings shall likewise be placed to the credit of the Donation Fund from both scales of contributions.

13. Should any branch fail or refuse to remit to the General Office the proportion of its funds required by these rules, or should it be known that there is any intention to apply the funds of the branch otherwise than is provided in these rules, then the Executive Committee, through the General Secretary, shall appeal to the Registrar of Friendly Societies (in case of savings-bank deposits) or take proceedings in a law court to order the moneys deposited in the Post Office Savings Bank, or elsewhere invested in the name of such branch, to be paid to the trustees of the general funds for the purposes named in these rules.

RULE X.

CONDITIONS OF MEMBERSHIP.

1. Any person permanently employed, or extra men continuously employed for a period of twelve months, on a railway in Great Britain or Ireland, who is proposed and seconded by two members at a meeting of the branch and who is acceptable to the branch, shall be admitted a member of this society on the condition hereinafter mentioned. Men employed on private railways not authorised by Act of Parliament for the conveyance of goods and passengers shall not be eligible for membership.

2. The entrance fee shall be one shilling, to be paid before proposal for membership. Any member failing

to pay any contribution within thirteen weeks of the time he was proposed shall forfeit his entrance fee. Any person refused membership shall have his money returned to him.

3. Each and every member in the society, and those hereafter admitted, shall pay a contribution according to one of the following scales, and be entitled therefore to the benefits of the society (excepting those of the Sick and Funeral Fund) provided by the scale for which the contribution is paid. That is to say :—

SCALE A.

	per week
Contribution for Donation, Legal Assistance, Superannuation, Movements, and Management	3½d
Contribution for Protection Fund	1d.
Contribution for Orphan Fund	½d.
Total	5d.

SCALE B.

Contributions for Donation, Legal Assistance, Movements, and Management	2½d.
Contribution for Protection Fund	½d.
Total	3d.

No railwayman shall be eligible to join Scale A after he has attained the age of 50 years.

Any member may be transferred from Scale A to Scale B, and, if a free member, he shall be entitled to the benefits of the higher scale for a period of six months from the date of transfer, after which date he shall come under the benefits of Scale B. Any member transferring from Scale B to Scale A shall not be entitled to the additional benefits until after the periods specified by the rules have elapsed.

4. The membership of a member shall date from the time the first money was paid, his contributions dating therefrom.

5. Each member shall be supplied with a copy of the rules, for which he shall pay threepence. Annual reports to be supplied free, and minutes of Executive Committee meetings to be supplied to branches (only) on order, at cost price. All orders for annual reports to reach general Office by January 31st, and to be issued to the branches ordering them not later than March 31st.

6. Any member leaving the employ of a railway company, and following any other kind of employment, shall be entitled to all benefits of the society, excepting that of the Protection Fund, as long as he remains a member and acts in conformity with these rules. When permanently absent from Great Britain and Ireland a member is suspended from all benefits.

7. Any member owing more than thirteen weeks' contributions shall not be entitled to donation or the benefits of the Protection Fund, but shall be entitled to receive donation as soon as he has paid his arrears; if owing more than sixteen weeks' contributions, he shall not be entitled to any benefits of the society (nor his children to the Orphan Fund allowance), and he shall remain out of benefit until three months after the arrears are paid, as though he was not a free member; should he owe more than twenty-six weeks' contributions he shall cease to be a member, and thereby be expelled the society, unless he can show that he has had domestic affliction, or unless it can be proved that negligence is attached to the branch officers in not receiving his payments. All fines, levies, and moneys not paid when due shall be considered arrears of contributions; part payment of which may or may not be taken, as the branch may decide.

8. Any member clear on the books requiring to be transferred shall apply to the secretary of the branch he wishes to join, who shall apply to the secretary of the branch he is leaving, for which the member shall pay twopence to the H.M. Fund of the branch he transfers to. If he is entitled to a clearance it shall be forwarded within seven days of receipt of application, failing which the branch secretary shall be fined one shilling. If a transfer member becomes entitled to any donation benefit within six months after transfer, it shall be paid by the branch from which he was transferred.

9. Any member who has paid a second contribution shall have power to speak or vote on any business of his

10th Day. No. 2—continued.

Contributions Members

Date of Membership.

Rules and Reports.

Leaving the Service.

Arrears of Contributions.

Clearances.

Right of Voting.

Admission.

Entrance Fee.

Enforcing Obedience to Rules Relating to Money Remittances, etc.

Branch Management Fund Allowance.

Sick Fund Remittances.

Branch Secretary to Remit Money.

Appendix.

10th Day.
No. 2—
continued.

Admission to
Branch
Meetings.

Appeal of
Members.

Expulsion of
Members.

branch, but shall not have the right to vote on any business affecting him as an individual. Members of either scale are entitled to an equal share in the government of the society.

10. Any member shall be able to claim admission to the meetings of any branch on producing his card of membership. He shall have no vote, and shall not speak at such meetings, except by the consent of the chairman.

11. Any member dissatisfied with the decision of his branch can appeal to the Executive Committee. Should he be dissatisfied with the decision of the Executive Committee, he shall be entitled to an appeal to the Annual General Meeting, whose decision shall be final.

12. Any member or members found guilty of attempting to injure the society, or to break it up otherwise than as allowed by these rules, and the same being proved to the satisfaction of the Executive Committee, the Committee shall expel him or them from the society, and he or they shall forfeit all claims on the funds and benefits of the society.

RULE XL

HONORARY MEMBERS:

Hon. Members.

Any person subscribing 10s. 6d. or more per annum may be enrolled as an honorary member by a vote of two-thirds of the members present at a branch meeting properly convened for such a purpose; the subscription so paid to be equally divided between the Orphan Fund and the Branch Benevolent Fund or Home Management Fund. An honorary member shall have the right of attending any meeting of the society and speaking, but not voting, on any matter connected therewith. He shall be eligible for the office of vice-president, and his name, with the branch to which he belongs, shall be inserted in the Annual Report of the society.

RULE XII:

SUPERANNUATION:

FOR OLD AGE.

1. Any member in Scale A (excepting those hereinafter mentioned in Clauses 2 and 3) being over sixty years of age, and who has been a member twenty years, and is rendered permanently incapable of following his usual employment through old age or by reason of infirmity, on the same being certified by a medical certificate, shall be entitled to a sum of twenty pounds.

Exception to
Clause 1:
Members join-
ing in 1872.

2. Any member who joined the society before January 1st, 1873, and has continued a member from that time, or any member who has joined between December 31st, 1872, and April 1st, 1878, who has been for ten consecutive years a member of the society, and in either case is over fifty years old, and is rendered permanently incapable of following his usual employment through old age or by reason of infirmity, shall be entitled to a sum of twenty pounds.

For Disab-
lement by
Accident.

3. Any member of Scale A who, when on or in the execution of his duty, meets with an accident which permanently disables him from following his usual employment, and who, at the date of his accident, had been twelve clear consecutive calendar months in the society, shall furnish to the Executive Committee (through his branch) a statement of his claim for superannuation, with the necessary medical and other certificates required of him. Should the Executive Committee be satisfied with the validity of his claim, and that the accident was not occasioned by drunkenness or by gross neglect of duty of the member, it shall grant to him the sum of twenty pounds. Should the accident result in death within a period of one month, then the above grant will not apply, but a sum of five pounds shall be paid to the widow, or the nearest relative of the deceased member, and in case of death from natural causes, the sum of five pounds shall be paid to the widow or nearest relative of the deceased member, as determined by the Executive Committee.

Allowance at
Accidental
Death.

4. A member having received the grant of twenty pounds under any one clause, shall not be entitled to the grant again under any other clause of the rule.

£20 not to be
twice granted.

Definition of
Terms.

5. The term "accident" shall mean an unforeseen event connected with the machinery, appliances, or conditions of a member's occupation, but shall not mean

any unusual event or misfortune arising from the member's bodily or mental condition, or from the natural result of disease. The term "on duty" shall include that time a member is occupied in going to, or coming from, his work over the company's premises.

6. Any member of Scale A claiming superannuation shall make his application to the Executive Committee in the manner laid down by them, on the form provided for that purpose, stating thereon to whom the superannuation benefit shall be paid in the event of his death before the claim has been granted.

7. In the event of the Executive Committee refusing a member's application for superannuation, it shall state to the member's branch its reason for such refusal. The branch to which the member belongs may, on the member's behalf, appeal against the decision of the Executive Committee to the Annual General Meeting.

8. The payment of the superannuation allowance shall be made through the branch to which the member belongs, from and by the General Office. A member having received superannuation may continue to pay his contribution, and be entitled to all the other benefits of the society.

9. Unless a member makes a claim for superannuation benefit within three months after it is known that he is permanently disabled, he shall forfeit his right to the benefit.

RULE XIII.

LEGAL ASSISTANCE:

1. Should any member who has paid six months in the society and is clear on the books be prosecuted for an offence or offences alleged to have been committed by him in the execution of his duty, or be unjustly dismissed from his employment with or without forfeiture of wages, or be in any manner illegally dealt with by his employers or their agents in connection with the carrying out of his duties, or have withheld from him by his employers any moneys to which he is entitled, or if in any way it is necessary for his protection or for the obtaining of any just claim from his employers that any legal proceedings should be taken, the committee of the branch to which he belongs shall have power, should they deem it a fair case, to instruct a local solicitor to institute legal proceedings on such member's behalf, and at once forward to the General Secretary a full statement of the case undertaken. Should the branch committee doubt the advisability of proceeding with any case, they shall confer at once with the General Secretary thereon.

2. Any case of much importance, or one involving the expenditure of £5, shall be referred to the Executive Committee for its consideration before any proceedings whatever are taken. In the interval of the Executive Committee meetings, the General Secretary shall take the opinion of the society's solicitor on such cases, and be guided thereby.

3. Should it be found that the necessity for legal assistance has been caused by drunkenness, wilful neglect of duty, or by any criminal act on the part of a member, this assistance shall not be granted; and should a member's case be taken up and lost in consequence of his own false statements, and the Court order the member to bear the costs of the other side, the society will not pay the same for him.

4. The cost of legal proceedings shall be paid from the Central and Legal Defence Fund.

5. The Executive Committee shall have power to institute any legal proceedings it may deem to be in the interests of the members.

6. No claim for compensation for injuries to members will be taken up by the society unless a declaration be made by the member authorising the proceedings, and that in the event of any settlement being made by the member without knowledge of the society, such member shall undertake the liability of any legal costs incurred.

RULE XIV.

DONATION BENEFIT.

1. Should any member who has been in the society six months, and is clear on the books, be discharged or suspended from his employment, he shall inform the secretary of his branch of the occurrence, and state the circumstances

under which he was discharged or suspended. The secretary shall call together the branch committee, who shall investigate the case; and if his discharge or suspension was not the result of drunkenness or misconduct, the member shall be entitled to the following benefit:—

SCALE A.

If suspended from duty he shall receive 18s. per week.

For each of the first ten weeks he is out of work, 12s. per week.

For each of the second ten weeks he is out of work, 6s. per week.

SCALE B.

If suspended from duty he shall receive 12s. per week.

For each of the first ten weeks he is out of work, 10s. per week.

For each of the second ten weeks he is out of work, 5s. per week.

A member having recovered from sickness, but who is not allowed to return to duty, shall be considered as under suspension. A member discharged for refusing to accept a reduction of wages unjustly made by a railway company shall be entitled to this benefit. A member shall be entitled to out-of-work pay for all time lost through a strike or lock-out in other trades; Scale A at 2s., and Scale B 1s. 8d. per day. The branch committee is further empowered to grant donation to any individual member who is, in their opinion, justified in resigning his employment owing to the adverse conditions thereof.

2. A member shall make application for donation within three days of his suspension or discharge, or forfeit the benefit for all time he omits to do so exceeding three days. Any member out of employment for less than one week shall not be entitled to donation, excepting he be a railway servant temporarily suspended from duty, and afterwards reinstated. Any member obtaining work for a period of less than twenty weeks, and again declaring on benefit, shall only receive donation for the remaining period he was entitled to when he declared off; and any member receiving twenty weeks' donation shall work twenty-six weeks before being again entitled to this benefit.

3. Each member in receipt of donation benefit shall report himself to the branch every week, or, if necessary, oftener.

4. No member shall continue to receive the donation benefit if he allows his contributions to become more than thirteen weeks in arrears. Any member in receipt of donation refusing, without reason, to work when employment is found him, or not endeavouring to obtain employment, shall forfeit his claim to the donation. Any member thrown out of employment before he has been six months in the society, and who is out of employment when he becomes a free member, shall not be entitled to the donation unless he first again obtains employment and is again thrown out.

5. Each branch shall pay the donation benefit by an order on the treasurer, signed by the secretary. Any member unable to attend personally and receive his donation shall state the reason, and, if satisfactory, the donation shall be sent to him by post.

6. Any member, receiving donation during suspension, and who is afterwards paid by his employers for the whole or any portion of such suspensions, shall refund to the branch the amount of the donation received for that period. Any member dismissed from his employment, and receiving wages in lieu of notice, shall not be entitled to donation for the period covered by such wages. Should he, from any course, have received the benefit for such period, he shall refund the same to the branch.

7. Any member on donation obtaining work at a distance, on producing satisfactory proof, shall have advanced to him third-class railway fare, and, in addition, a sum of from one to ten shillings, which he shall repay by instalments with his contributions. If not repaid within twelve weeks it shall be considered arrears of contributions.

RULE XV.

TRAVELLING RELIEF.

1. Any member in receipt of donation wishing to travel in search of work shall apply to the chairman of his branch, who shall instruct the secretary to issue a travelling card;

In it the secretary shall enter the name of the branch and member, with the secretary's address, the amount owing for contributions, and the amount received for donation.

2. Each member on travel with a legal certificate shall receive:—

SCALE A.

For the first ten weeks, 1s. 10d. per day for five days in the week, and 2s. 10d. for the sixth day.

For the second ten weeks, 10d. per day for five days in the week, and 1s. 10d. for the sixth day.

SCALE B.

For the first ten weeks, 1s. 6d. per day for five days in the week, and 2s. 6d. for the sixth day.

For the second ten weeks, 8d. per day for five days in the week, and 1s. 8d. for the sixth day.

The time a member has been in receipt of donation shall be considered as if he had been in receipt of travelling relief, and the time he has received travelling relief as if he had received donation.

3. No member shall receive more than one day's relief at any one place, unless he has to leave to stay more than one day, or unless the next branch is more than twenty-five miles away, when he shall receive one day's relief for every twenty-five miles, and for any fractional portion thereof; but he shall not become entitled to any further relief until the time is expired when the relief advanced becomes due. A member shall not be allowed to stay more than twenty-four hours in any place, unless by permission of the branch secretary at such place, and he must also report himself each day to the secretary of a branch, or forfeit his relief for each day's neglect, unless he can give satisfactory explanation.

4. Each branch secretary shall enter on the member's travelling card the amount of relief and date it is given, the amount of contributions then due, and if the member has stayed more than twenty-four hours in the place, give the reason. Secretaries should take every precaution to cause this benefit to be paid only to those who are entitled thereto, and, in the event of a card not being considered genuine, it shall be tested by the secretary at once writing to the branch which issued it.

5. A member shall cease to be entitled to this benefit if he owes more than thirteen weeks' contributions. To enable a member to keep in benefit, the contributions shall be paid to the secretary of any branch such member visits, and each secretary shall at once forward the amount to the branch the member belongs to, and also enter the same on his cards.

6. The officers of branches shall use every effort to obtain employment for a member on travel, and if such member should refuse to accept employment without a satisfactory cause, or not endeavour to obtain employment, he shall forfeit all claim to this benefit.

7. Any member on travel shall, within three days of obtaining employment, deposit his travelling card with the secretary of the branch nearest to which he is, which card shall be at once forwarded to the branch it has been issued from.

RULE XVI.

PROTECTION FUND.

For the more effectual protection of the labour and rights of members, and for the better carrying on of any movement having that end in view, and for compensating members and officers for loss suffered in consequence of taking part in any movement, or in the work of the society, there shall be a Protection Fund, to which each member of Scale A shall contribute one penny per week, and each member of Scale B one half-penny per week. The fund shall be centralised.

FIRST OBJECT: PROTECTION OF INDIVIDUAL MEMBERS.

1. Any member (not being over thirteen weeks in arrear in his contributions) discharged from his employment for taking an active part in any movement carried on by, or under the sanction of the society, or for being an officer of the society, and for doing his duty in that capacity, shall, on the cause being clearly proved to the satisfaction of the Executive Committee or Annual General Meeting, be granted, in Scale A, a weekly sum not exceeding 15s. per week, and in Scale B a weekly sum not exceeding 10s.

10th Day. No. 2—continued.

Amount of Relief.

Conditions upon which it is Granted.

Instructions to Secretaries.

Payment of Contributions.

Refusing Employment.

Obtaining Employment.

General Object of the Fund.

Allowance to Individual Members Discharged for Society Duty.

Time Limitations.

Members to Report themselves.

Disqualifications.

Mode of Payment.

Refunding Donation.

Loans to Members.

Mode of obtaining Travelling Card.

Appendix.
10th Day.
No. 2—
continued.

per week from the Protection Fund (in addition to donation) until he again obtains employment. Should he be unable to again obtain employment equivalent to that from which he has been discharged, the Executive may, in lieu of the weekly allowance, grant to the member in Scale A, a lump sum not exceeding £50, and in Scale B a lump sum not exceeding £25.

If weekly payments have been made to a member, then the lump sum shall be reduced by the total amount of the weekly payments received by the member, but the payment of a lump sum shall not interfere with a member's right to donation benefit.

10a. Weekly
to Reduced
Members.

2. In the event of a member obtaining employment at a reduced rate, or being reduced in the service for the cause above-named, an allowance shall be made to him not exceeding 10s per week, but this shall not be continued for a longer period than one year.

Manner of
Claim.

3. A member discharged from his employment, or reduced in the service for the causes which are named in this rule, shall state to the secretary of his branch, in writing, the full circumstances within four days of the date of his discharge. The branch secretary shall call together the branch committee, who shall investigate the case, and send a report of the facts to the Executive Committee, accompanied by the member's own statement.

Absence or
Misconduct to
be proved.

4. In either case it must be proved beyond doubt that no misconduct or neglect of duty of any description on the part of the member justified his discharge or reduction.

Benefit With-
held from Idle
Members.

In the event of a member in receipt of weekly payments failing to seek for employment, or refusing to accept the same when offered to him, the branch to which he belongs shall, immediately on proof thereof, suspend him from the benefit of this fund, and report the same to the Executive Committee.

The Executive Committee shall have power to withhold further payment of the grant if the report of the branch of the circumstances be correct, or if from other reliable resources it is proved that the member burdens the fund when employment is obtainable.

Misrepresenta-
tion Punished
by Expulsion.

5. Any member who obtains, or endeavours to obtain, the benefit of the fund by misrepresentation, or by false pretence, shall be expelled the society by the Executive Committee.

SECOND OBJECT: PROTECTION OF THE RIGHTS AND LABOUR OF BODIES AND MEMBERS.

Labour Move-
ments to be
Assisted
through E.C.

6. In any movement against a reduction of wages or an increase of hours, not justified by events, or in any movement for obtaining a justifiable increase of wages, or a reduction of hours, the society shall assist the members concerned in the conduct of such movement through the Executive Committee, whose sanction must be first obtained.

Movements to
be under the
direct control of
the General
Secretary.

7. Every movement which receives the sanction of the Executive Committee shall be under the direct control of the General Secretary, who shall, in the first instance, give permission for the holding of a delegate meeting of the grade or grades concerned, for the purpose of deciding upon a programme of the demands to be put forward. A copy of every such programme to be forwarded to the General Office of the society.

The basis of representation to the delegate meeting shall be one member for every 100 members of the grade or grades concerned, upon any particular line of railway.

A Committee of
seven members
to be elected to
approach
employers, etc.

The delegate meeting having formulated a programme, it shall then elect a committee of seven members, who shall arrange for the presentation of the demands to the company or companies, and have the general conduct of the movement preparatory thereto. After the first meeting of this committee (of which the General Secretary must be apprised) subsequent meetings may be held, as necessary, with that officer's sanction.

Delegates' fees
and fares.

Each delegate and committee-man shall receive 12s. 6d. for each day's attendance, and the time actually necessary for travelling to and from the place of meeting, and be allowed third-class railway fare.

Second delegate
meeting General
Secretary to be
present.

8. In the event of the committee's efforts failing to obtain the concessions asked for within a reasonable period, a second delegate meeting shall be held to consider the advisability of ceasing work. At this meeting the General Secretary shall attend and assist in the deliberations. The Executive Committee shall take a ballot of the men before deciding to cease work or issue notices.

The Executive Committee shall also make an appeal to the company or companies on behalf of the men concerned.

In the event of every effort by appeal failing to attain the end sought, it shall be the duty of the Executive Committee to offer the company or companies in whose service the men concerned are, to refer the matter in dispute to arbitration, which may be repeated if circumstances warrant it.

Executive Com-
mittee to offer
to refer matter
in dispute to
Arbitration.

Should the offer of arbitration be refused or ignored, and it be finally decided to cease work, the Executive Committee shall support the members from the Protection Fund, in accordance with Clause 10 thereof.

In the event of a withdrawal from work, it shall be the paramount duty of the Executive Committee to use every lawful means to assist the men in their struggle.

Duty of E.C.
and Members
when Sanctions
is given for
Withdrawal
from Work of
Men.

9. Should the delegate meeting decide not to cease work, or should the Executive Committee decide to take a ballot of the men and the majority of votes given be adverse to ceasing work, or should the Executive Committee decide to issue notices to leave work, and sufficient number be not forthcoming to warrant their being handed to the company or companies, with a reasonable prospect of success, then the sanction of the Executive Committee shall have been considered to have been withdrawn, and no further expense shall be defrayed from the society's funds in connection therewith. But this shall not prevent an application for sanction being again made, when better organisation prevails, accompanied by a firmer determination for united action.

10. Members when unemployed, in consequence of taking part in any dispute sanctioned by the members of the society shall receive an allowance of 12s. per week, or 2s. per day in Scale A, and 6s. a week or 1s. per day in Scale B, and an additional 1s. per week for each child under twelve years of age, but shall not receive the donation allowance for the same period.

Allowances
when
Unemployed

THIRD OBJECT: ASSISTING MEMBERS TO EMIGRATE DURING OR AFTER A DISPUTE.

11. The Executive Committee shall have power to grant a sum not exceeding £10 to any member unemployed and on this fund to assist him in emigrating from the United Kingdom or Ireland, to the Colonies, or to any distant country.

Assistance for
Emigration.

SOME REGULATIONS OF THE FUND.

12. Each member in receipt of the Weekly Protection Fund Benefit shall report himself to the branch every week, or, if necessary, oftener. No member shall receive the benefit of this fund until he has been six months a member, nor if he allows his contribution to become more than thirteen weeks in arrears.

Recipients to-
Report them-
selves.

13. Each branch shall pay the weekly benefit by an order on the treasurer signed by the secretary. Any member unable to attend personally and receive his payment shall state the reason, and, if satisfactory, the allowance shall be sent to him.

Mode of
Payment

14. The total amount received by each branch for the Protection Fund shall be remitted to the General Office with the quarterly dues. All payments of benefits or for movements as above shall be paid from the General Offices, and only with the authority of the Executive Committee.

Fund kept at
General Office.

15. The Protection Fund benefits shall be embodied in the Trade Union benefits, and be part of the common fund of the society, but a separate account of the fund shall be kept and published.

Community of
Funds.

RULE XVII.

THE ORPHAN FUND.

1. For the support of the orphan children of members of the society, who die from accident or from natural causes, an Orphan Fund shall be established and maintained in connection with the society.

Object of the
Fund

2. The Orphan Fund shall be supported (1) by a weekly contribution of one half-penny, to be paid by each and every member of the society in Scale A; (2) by donations and subscriptions obtained from the public; and (3) by the proceeds of branch anniversaries, entertainments, collections, etc.

Means of Sup-
porting the
Fund.

3. Each member of the society in Scale A shall contribute a sum equal to one half-penny a week (or 2s. 2d.

Members' Con-
tributions to
the Fund.

per annum, which sum is included in the rate of contributions stated in Rule 10, clause 3); any member whose payments are over sixteen weeks in arrears shall be deemed out of benefit. The contributions of members must be entered in the books of the branch, and remitted to the General Office each quarter with the other quarterly dues.

4. The Executive Committee and each branch of the society are empowered to appoint collectors to solicit aid from the public. Each collector shall be supplied with an authorised collecting book, in which shall be rendered an account of all moneys received by him. Each collector shall each quarter render an account of the moneys collected, and pay over the same to the General Office through the branch to which he belongs. The Executive Committee shall have power to authorise any approved undertaking for raising money for the Orphan Fund, and branches are urged to devote some part of the proceeds of their anniversary meetings to strengthen the fund.

5. In the event of any member in Scale A (other than those sixteen weeks in arrears of contribution) being killed by an accident when at work, or dying from injuries received in an accident, or of any member dying from natural causes, who, in either case has been a good member on the books for not less than eighteen calendar months preceding his decease, and who (in either case) leaves behind him a child, children, or step children born in lawful wedlock, under fourteen years of age, the branch to which he belongs shall claim from the Executive Committee for his child, or children, the following benefits of the Orphan Fund; the same shall be paid in the manner, and subject to the conditions hereinafter specified:—

For the 1st child	3s. per week.	} Till it attains its fourteenth birthday.
" 2nd "	1s. "	
" 3rd "	1s. "	
" 4th "	6d. "	
Each other child to the seventh, 6d. per week till it attains its fourteenth birthday.		

No one family of orphans during the lifetime of the mother shall receive more than 7s. per week from the fund. As each child in a family attains the age of fourteen the payment on behalf of the youngest who remains shall be discontinued, and the "first child payment" continued until the youngest attains the age of fourteen years, subject to its obtaining employment after the age of thirteen, in which case the payment shall cease. Should one orphan die, a deduction from the weekly allowance shall be made to the extent of the lowest amount paid for any one child of the family.

[The foregoing payments are to be conditional, on the moneys in the Orphan Fund enabling the Executive Committee to grant or continue to pay the claims on the fund. Should the fund at any time fall below the amount of claims made upon it, the benefit will be proportionately reduced in each case of families of orphans having claims on the fund by these rules.]

6. The benefit to each family of orphans shall be paid weekly to the mother or other proper guardian by the secretary of the branch to which the father belonged, or by the secretary of the branch nearest to where the orphans reside. The moneys paid by a branch shall be refunded by the General Office from the Orphan Fund at the end of each quarter. A receipt shall be taken for each amount paid.

7. It shall be the duty of the secretary, or other officer appointed by the branch, to ascertain the condition of the orphans aided from the fund, and from time to time report to the branch or to the Executive Committee as to their cleanliness, clothing, schooling, and general treatment.

Should it be found that from any cause the orphans are neglected, and the moneys not applied to their benefit by their guardians, the Executive Committee reserves to itself the right to withhold the moneys from the guardian, and to authorise the branch officers to expend the allowances in food and clothing for the children.

8. Should any orphan or orphans entitled to the benefit of the fund be or become motherless, and have no relative or friend willing to take charge of them, the branch shall use its best efforts to prevail on kind friends in the locality to adopt the children. The Executive shall have the power in such cases to increase the allowance of the children to a total amount, according to their number, but not exceeding 10s. per family per week; the said allowance to be paid to those persons who elect to adopt the children. Or the Executive Committee and

the local branch shall have authority to raise a special fund in addition to the allowance from the Orphan Fund, or to take other means for securing the entrance of motherless or guardianless orphans to any Home for Orphans in which they will be properly cared for.

9. Should the mother of any orphan or family of orphans re-marry, the children shall cease to be entitled to the benefit. Should the mother again become a widow, the children shall be re-admitted to the benefits of the fund. Should the mother of a family receiving the benefit of the fund be guilty of immorality, the Executive Committee shall have power, on the representation of the branch, to withhold payment of the benefit while the children remain with the mother, or to apply it for the benefit of the children if separated from the mother. Should a mother of children on the fund desert them, the provisions of this clause and of clause 8 shall apply to such children.

10. Applications for the benefits of the Orphan Fund must be made through the branch to which the orphans' father last belonged, and on a form specially provided by the General Office. Copies of certificates of marriage and of registration or baptism will be required to accompany each application.

11. The Assistant Secretary shall enter in a book each grant made, and shall record the name of the children's father, his occupation, date and cause of death, the name, age, and sex of each orphan, and shall publish in the quarterly and annual financial statements the amount paid to each family of orphans. The Assistant Secretary shall record in a book the names and addresses of donors and subscribers to the fund, copies of the same to be in the hands of branch secretaries on or before the 20th February in each year, and shall publish in the Annual Report the names of those who contribute 5s. and upwards during each year.

12. The whole of the money obtained for the Orphan Fund shall be remitted to the General Office, and be deposited, in the names of the trustees of the general fund, with the National Provincial Bank of England, or invested in similar securities to those which the general rules prescribe for the other moneys of the society. A separate account of the fund shall be kept by the Assistant Secretary, and published with the other accounts of the society.

13. The Executive Committee, subject to the approval of the Annual General Meeting, shall control the fund, administer the rules thereof, and be responsible for its proper management. The rights of appeal laid down in Rule 9 will also apply to the orphans of members claiming the benefit of the fund.

14. No officer of the society shall be paid any remuneration from the fund for any duty imposed on him by the foregoing rules, and, so far as possible, the cost of administering the fund shall be restricted to charges for printing, stationery, postage, and requisite travelling expenses. This rule does not apply to any special effort undertaken for the purpose of raising additional support to the fund. In such cases the net proceeds will be the amount entered as received for the support of the fund.

RULE XVIII.

FINES.

1. Fines inflicted by the Executive Committee shall go to the General Management Fund, and by the branches to the Branch Management Fund. The Executive Committee and branch officers shall be held responsible for the inflicting of the fines in cases under their respective authority.

2. The Executive Committee shall have power to inflict a fine not exceeding twenty shillings, and the branches a fine not exceeding five shillings.

RULE XIX.

ALTERATION OF RULES.

1. No new rules shall be made, nor shall any of the rules herein contained be amended, altered, or rescinded, except by the Annual General Meeting elected for that purpose by a majority of members, as provided in Rule 2.

2. All proposed alterations of rules must be agreed to by twelve branches of the society or the Executive Committee, and reach the General Office on or before July 23rd.

Appendix.

10th Day.
No. 2—
continued.

Motherless and Friendless Orphans may be Purchased into Homes.

Re-marrying of Orphans' Mothers.

Care of Children in the event of Immorality or Desertion of the Mother.

Applications for Support, how to be made.

Registration and Publication of Orphans aided by the Fund.

Subscribers' Names to be Registered and Published.

Centralisation and Investment of Fund.

Separate Account kept and Published.

Control of Fund

Officers not to be Paid for Services.

Cost of Management Restricted.

Amount of Fines.

Conditions on which Rules can be Amended.

Proposed Alterations to be Submitted for Two Months to all Branches.

Appendix.
10th Day.
No. 2—
continued

and be issued to the branches by August 1st ; and matters for the Supplementary Agenda on or before September 1st. Amendments to proposed alterations of rules may be made by branches, and shall be considered by the Annual General meeting, if received at the General Office on or before September 1st; and such proposed amendments shall be issued to the branches with the Supplementary Agenda. A branch represented by a member of another branch in the group shall forward to such representative, in writing, any opinion they may desire to express in regard to the proposed alterations, signed by the branch chairman and secretary. The representatives shall submit the opinion to the Annual General Meeting.

RULE XX.

DISSOLUTION OF THE SOCIETY.

The society shall not be dissolved, or its funds diverted from the purposes mentioned in these rules, except by a vote of five-sixths of the whole of the financial members.

RULE XXI.

OPTIONAL SICK AND BURIAL FUND.

1. A fund shall be framed (1) for insuring to members sums of money for their relief or support during sickness, or when temporarily disabled by accident ; (2) for insuring sums of money payable to the nominees, widows, children, personal representatives, or next of kin of members at their death.

2. The fund shall be raised by the entrance fees and regular contributions of members, by interest on invested capital, and by donations of the benevolent.

3. It shall be optional with all present members of the society, or with such as may hereafter join, and who are under fifty years old, to participate in the benefits of this fund by becoming contributors. Each member of this fund shall be and remain a member of the society. On leaving or being expelled the society a member shall forfeit all claims on this fund.

4. A member must be of sound health at the time of joining the fund, and produce satisfactory medical certificate to that effect, on a form to be provided by the society.

5. SCALE OF CONTRIBUTIONS AND BENEFITS.

Age next birthday of Member joining.	Entrance Fee.	CLASS A.	CLASS B.
		To provide 10s. per week for 20 weeks, and 6s. 6d. per week for 20 weeks more during sickness, and £5 at Member's Death. A Member shall pay	To provide 6s. per week for 20 weeks, and 4s. per week for 20 weeks more during sickness, and £3 at Member's Death. A Member shall pay
19 to 30	1s.	5d. per week.	3d. per week.
31 to 38	1s.	6d. „	3½d. „
39 to 45	1s.	7d. „	4d. „
46 to 50	1s.	8½d. „	5d. „

These payments include all charges for management, etc.

Further Benefits provided for by the above payment as follows :—

6. In cases of accident on duty, or occurring while going to or from his employer's premises, causing temporary incapacity for work, a member shall receive full benefit for forty weeks, and half benefit for twenty weeks more, with 1s. 6d. additional in Class A, and 1s. additional in Class B, for the joint period of sixty weeks, provided always that the injured member is unable to resume his or any occupation.

7. In case of death to a member of the fund, resulting from an accident received while on duty, the person entitled to the funeral allowance shall receive—

If the member be in Class A - - £10
" " " " B - - 6
in lieu of the amount specified in scale.

8. A member shall be entitled to half benefit for sickness, and full allowance for injuries or death by accident in three months, and to full benefit in six months for ordinary sickness or death. Date of entrance to be counted from the time which contributions cover. A member whose contributions to the fund are thirteen weeks in arrear shall cease to be entitled to any benefit, and shall not again be entitled to benefit until three months after his arrears are paid up. Any member owing more than six months' contributions to the funds shall cease to be a member of it.

Date at which Benefit Accrues
Penalty for Arrears.

CONDITIONS OF SICK ALLOWANCE.

9. A member of the fund incapacitated for work by illness or accident shall make a declaration to that effect, specifying on a form provided, the nature of his complaint or injury, which shall be certified as true by two free members to whom he is known. He shall forward the same to the secretary of the branch to which he belongs. If the declaration is satisfactory payment shall be made the member in accordance with the scale of the class he belongs to. (Members resident at a distance from the branch may obtain either the certificate of the medical attendant who has visited them, or of a minister in their parish, if two free members cannot be easily reached).

Declaration Sickness to be made to the Branch Secretary

10. If required by the branch, or the Executive Committee, an applicant member, or member in receipt of sick benefit, shall furnish a medical certificate, or consent to be visited by a medical man, or by visitors appointed by the society.

Members to Provide Medical Certificate if Required, etc.

11. A member must be unable to follow any occupation for three days before being eligible to declare on the fund. When admitted on the fund payment shall be made from the first day of illness, provided always the member's contributions be not thirteen weeks in arrear.

No Allowance for less than Three days.

12. Members must declare off the fund immediately they resume work. The declaration must be sent to the branch secretary.

Members to Declare Off the Fund.

13. The sick allowance shall be paid weekly, and on Saturday.

Allowance Paid Weekly.

14. For each odd day of the six working days a member is sick he shall receive one-sixth of the weekly allowance he is then entitled to.

Payment for Odd Days.

15. A member having received the sick allowance for the whole period (viz., forty weeks consecutively) shall not again be entitled to sick benefit until forty weeks have elapsed, except his necessity for it is caused by accident, when no limitation is imposed.

Members to run Forty Weeks after Full Benefit.

16. A member having declared off the sick fund and again declaring on within the space of twenty weeks, shall be placed in the same position as when he last received sick allowance, excepting always when the second declaration on the fund is caused by accident received when on duty.

Members again declaring on the Funds within 20 weeks.

17. A member shall not receive sick benefit and the society's donative allowance at one and the same time.

Not to Receive Sick and Donative Allowance together.

18. A member incapacitated from work by the effects of immorality or drunkenness, or by reason of injuries received in an illegal quarrel or combat, shall not be entitled to sick allowance for the period of such incapacity.

Immorality and Drunkenness Disqualify for Benefit.

19. A member guilty of fraud against the society, or proved guilty of felony, shall lose all claim to the sick and all other benefits, and be liable to expulsion from the society.

Fraudulent Members.

20. A member during sickness may exercise liberty as to his hours of absence from home, provided that by the exercise of such liberty he does not aggravate or continue his complaint or affliction.

Liberty to Leave Home

21. A member in receipt of sick benefit shall continue to pay his contributions to the fund.

To Continue Contributions in Sickness.

FUNERAL ALLOWANCE OR INSURANCE.

22. A member when joining the fund shall nominate in writing under his hand the person (allowed by the Trade Union Acts) to whom the sum insured is to be paid at his death. Such person's name shall be registered in the branch book provided for the purpose. A member may change the nominee by due notice to the secretary of his branch.

Persons entitled to Funeral Allowance to be Registered.

23. In the event of the person so nominated dying before the member, the sum insured shall be paid to the deceased

In the event of a Nominee Dying before a Member.

Dissolution of the Society or any part thereof.

Objects.

Means of Raising the Fund.

Optional to all Members.

Medical Certificate on Joining to be Obtained.

Scale of Payments for Defined Benefits.

Additional Benefit for Accident.

Accidental Death Secures Double Funeral Allowance.

member's widow, personal representative, or nearest relative; or, if necessary, shall be employed for the decent interment of the deceased member.

24. Upon proof of a member's death having been made to the branch secretary, and providing that the member at the time of death was not thirteen weeks in arrears of contributions, the branch secretary shall at once obtain from the treasurer the sum assured by the deceased, and hand it over to the person entitled to receive it; and the General Office shall repay the amount to the branch.

25. Should a member die from the effects of an accident received while on duty, within twenty-eight days of the date of such accident, the larger sum (of either £6 or £10, as the case may be) shall be the amount due as funeral allowance.

MANAGEMENT OF THE FUND, ETC.

26. For all financial purposes the branch officers of the society shall be the officers of the sick fund; that is to say, the branch secretary, treasurer, check steward, trustees, and auditors. The duties pertaining to the moneys of this fund shall be performed by such branch officers.

27. The moneys of the fund shall be the common property of its members throughout the society, and be invested as are the other moneys of the society, of which they shall be considered a part.

The sick fund contributions received from members shall be centralised at the General Office, and for that purpose shall be remitted by the secretary at the end of each quarter. All payments will be made from the General Office through the branch secretary.

28. The General Office of the society shall furnish the branches with all necessary books for the purpose of this fund; such books shall be of a uniform character throughout the branches. When possible, the books, forms, and cards used for this fund shall be the same as those used for the other purposes of the society. An account of each member's payments will be kept at the General Office, compiled from returns made by the branch secretary each quarter.

29. A register of members of the fund belonging to each branch shall be kept in the register book of the branch. A general register of members of the fund shall be kept at the General Office, compiled from the copies of branch registers furnished by the secretaries each quarter.

30. A member's contribution to this fund must be paid to the branch secretary with the other contributions to the society, and a member's arrears of contributions will be calculated on the whole amount due for all purposes.

31. The branch secretary will enter separately on the member's card and in the branch books the specific purposes for which the member's contributions are paid.

32. A separate account of the receipts and expenditure of the sick and funeral fund shall be kept by the branch secretary, and the balance of money in hand belonging to this fund shall be separately shown in the quarterly financial statement and the general balance sheet of the society. The branch secretary shall be paid a sum equal to sixpence in the £ of the moneys received by him as contributions to the fund.

33. An amount equivalent to one halfpenny per week shall be devoted to management expenses from each member's contributions to the sick and funeral fund, and an account of the same be published.

34. Two visitors shall be appointed from the members of this fund from each branch whose duty it shall be to periodically visit sick members and report on their condition to the branch; to assist sick members in any manner necessary or desirable; and, so far as in their power, to assist in the arrangement of the funerals of deceased members.

35. In the event of a vote being taken on any question solely affecting the sick fund, only members of the fund may take part in the same.

36. It shall be in the power of the members of the fund in any branch assembled in meeting to decline to grant or continue the sick allowance, or to grant the funeral allowance, should the applicant or recipient be deemed to be imposing on the fund, or to have contravened the rules thereof. For this purpose only shall it be legal to call a special meeting consisting only of members of the fund.

37. A member of the fund dissatisfied with the decision of his branch, may refer the same in dispute to the arbitration of two members of the society, one chosen by the member and the other by the branch, or to the Executive Committee, whose decision shall be final.

38. In all matters relating to the sick and burial fund, the powers of the Annual General Meeting and of the Executive Committee shall be equally as binding and respected as in other matters of the society.

EDW. GARRITY,
WILLIAM HART,
WILLIAM PAUL,
WILLIAM GEORGE MAUNDERS,
WALTER ALLEN,
JOHN BALL,
FRED. SHEPHERD,

Members of
the Society:

RICHARD BELL, General Secretary.

TRADE UNION ACTS, 1871 AND 1876.

Form Reg. 10.

CERTIFICATE OF REGISTRY OF COMPLETE
ALTERATION OF RULES.

AMALGAMATED SOCIETY OF RAILWAY SERVANTS OF ENGLAND, IRELAND, SCOTLAND, AND WALES, a Trade Union.

Register No. 8, T.U.

It is hereby certified that the set of rules, copy whereof is appended hereto, has been registered under the above-mentioned Acts, in substitution for the set of rules already registered for the above-mentioned Trade Union, this 13th day of December, 1899.

[Seal of Central Office, or Signature of Assistant Registrar for Scotland or Ireland.]

Copy kept—E. W. B.

10th Day.
No. 2—
continued.
Cost of Management.

Visitors: their Duties.

Voting on Sick Fund Subjects.

Power of Members.

Special Meetings.

Arbitration and Appeal.

Authority of Government.

General Allowance to be at once paid.

Larger Allowance for Accidental Death.

Financial Officers.

Funds Common Property, to be Centralised.

Account Books for Fund.

Branch and General Register to be Kept.

Contributions, Arrears of.

Payments to Fund Entered separately.

Account of Fund shown separately.

Payment to Branch Secretary.

Appendix.

10th Day.
No. 3.

3.—EXTRACT from the RULES of the AMALGAMATED SOCIETY OF ENGINEERS.

(Handed in by Mr. A. Beasley on the Tenth Day. See Question 995.)

LIST AND CAUSES OF FINES.

	£	s.	d.		£	s.	d.
Refusing to take office	0	0	6	Member not returning travelling card or certificate within three days of starting work, for each day	0	0	6
Refusing to accept office after election	0	1	0	Secretary neglecting to send men when applied to	0	5	0
Branch officers not attending in time	0	0	6	Sick member failing to notify recovery within two days	0	1	0
Branch officers absent the whole evening	0	1	0	Sick member out after hours to forfeit that day's benefit.	2	0	0
Branch secretary for neglect of general duties	0	5	0	Sick member intoxicated or doing any kind of work	2	0	0
Branch secretary for fraudulent or wilfully-inaccurate report	1	0	0	Secretary neglecting any duty set forth in funeral rale	0	2	6
Overcharging for seeking members for situations	0	5	0	Trustee neglecting to inform secretary of receipt of remittance	0	2	6
Branch referee for neglect of duty	0	2	6	Secretary or other officer neglecting to write, or remit, or receive, money as ordered	1	0	0
Sick steward for neglect to visit, &c.	0	0	6	Member neglecting to pay money entrusted to him	0	2	6
Sick steward for neglect to report	0	0	6	Member misapplying the funds to be fined 20 per cent. on amount misapplied.			
Sick steward for not attending branch meeting	0	1	0	Members not conforming to Clause 1, Rule XXXIII. (clearance rule)	0	2	6
Branch auditors for absence from audit	0	2	6	Secretary neglecting to send for clearance within seven days	0	2	6
Branch auditors for absence from quarterly meeting	0	1	0	Secretary taking clearances if branch numbers over 300	0	2	6
Branch auditors for neglect of any duty	0	2	6	Member calling upon or writing to secretary where employed	0	2	6
Branch committee-man not attending when required	0	0	6	Member asking for or taking work by piece where piece work does not exist	1	0	0
Members not attending branch committee when summoned	0	0	6	Not sharing surplus piece money	0	10	0
Members violating district committee regulations	3	0	0	Not sharing surplus piece money, second offence	1	0	0
District committee man failing to attend	0	0	6	Working without receiving share of surplus	1	0	0
District committee man failing to report to his branch	0	1	0	Violating district committee regulations	3	0	0
District committee secretary failing to report to branches	0	1	0	Obtaining situation for non-society man (maximum)	1	0	0
Local councilman absent from meeting	0	1	0	Defrauding society or falsifying accounts	5	0	0
General secretary failing to send men	0	5	0	Member causing a quarrel, swearing, or using abusive language in club-room	0	2	6
General secretary failing to send out monthly report	0	10	0	Member not obeying the president when called to order (this fine may be imposed five times)	0	1	0
General secretary failing to send out quarterly report	0	15	0	Introducing topics not consonant with society's business	0	1	0
General secretary failing to send out annual report	1	0	0	President and secretary neglecting to levy any of the fines	0	1	0
General secretary failing to send out pence cards	1	0	0	Refusing to pay fine, or conniving at, or endeavouring to vindicate the misconduct of members	0	2	6
New and retiring branch officers not attending on quarterly meeting nights	0	0	6	Aggravated case	1	0	0
Key-holders causing damage to box to pay costs.	0	0	6	Gensuring a member for giving his opinion at meeting	0	1	0
Branch officers leaving meeting without sanction	0	0	6	Upbraiding another for receiving benefits	0	2	6
Member not informing secretary of his address or change thereof	0	1	0	Divulging society's business to non-members	0	2	6
Member absent from summoned meeting	0	0	3	Member striking another	0	5	0
Member leaving summoned meeting without leave	0	0	3	Member upbraiding another for leaving and returning to a situation	0	1	0
Member sending or knowingly giving a false apology	0	2	6	Finding fault with a member's conduct, and not reporting same	0	1	0
Proposer or seconder of a candidate not attending on night of admission	0	1	0	Member boasting of his independence	0	2	6
Members knowingly proposing or seconding candidates contrary to rule	1	0	0	Member boasting of his independence. Second offence	0	5	0
Member not giving notice of marriage	0	2	6	Member boasting of his independence. Third, and every succeeding offence	0	10	0
Branch president or secretary neglecting enquiry as to re-admission of member, or one previously proposed	0	2	6				
Branch secretary taking money out of meeting or not paying money so taken at next meeting	0	2	6				
Members not reducing arrears below 10s. on last meeting night in December	0	1	0				
Members not informing secretary when leaving situation, or when knowing of a vacancy	0	5	0				
Members not informing own secretary and also secretary of a nearer branch than his own, when commencing on a new situation	0	2	6				

4.—EXTRACT from the RULES of the FRIENDLY SOCIETY OF OPERATIVE STONE MASONS OF ENGLAND AND WALES (A Trade Union).

Appendix.
10th Day.
No. 4.

(Handed in by Mr. A. Beasley on the Tenth Day. See Question 995.)

TABLE OF FINES.

CLASS II.			RULE.			£ s. d.		
RULE.			RULE.					
3.—Late or non-attendance of E.C. -	-	0 0 3	28.—Members disclosing business -	-	-	1 0 0		
11.—Misconduct of the E.C. not to exceed -	-	1 0 0	28.—Members or Lodge officers private correspondence with G.S., E.C., &c. -	-	-	0 2 6		
11.—Misconduct of Trustees not to exceed -	-	1 0 0	32.—Neglect to report recovery -	-	-	0 2 0		
11.—Misconduct of G.S. in capacity as trustee not to exceed -	-	1 0 0						
11.—Misconduct of G.S. not to exceed -	-	5 0 0	CLASS IV.					
11.—Misconduct of A.G.S. not to exceed -	-	5 0 0	1.—Members giving incorrect statement -	-	0 10 0			
11.—Members of E.C. disclosing business -	-	0 2 6	12.—Members working overtime not to exceed -	-	2 0 0			
18.—Members canvassing votes not to exceed -	-	1 0 0						
CLASS III.			CLASS V.					
4.—Members refusing to stand nomination -	-	0 1 0	5.—Secretaries neglecting to deduct members' arrears, or instructing Treasurer to do same -	-	-	0 2 6		
4.—Members refusing after election -	-	0 2 6	5.—Treasurer neglecting to deduct members' arrears -	-	-	0 2 6		
4.—Secretary leaving office unsatisfactorily -	-	0 10 0	5.—Secretary allowing member to go out of benefit not to exceed -	-	-	0 5 0		
4.—Treasurer leaving office unsatisfactorily -	-	0 10 0	5.—Treasurer neglecting to pay sick on Friday night -	-	-	0 2 6		
4.—President late attendance -	-	0 0 3	6.—Sick member neglecting to notify change of residence to Secretary -	-	-	0 0 6		
4.—President non-attendance -	-	0 0 6	8.—Secretary neglecting to summon sick visitors -	-	-	0 1 0		
4.—Vice-President late attendance -	-	0 0 2	8.—Sick visitors neglecting duties -	-	-	0 1 0		
4.—Vice-President non-attendance -	-	0 0 4	9.—Sick member absent from home without notification -	-	-	0 1 0		
4.—Secretary late attendance -	-	0 0 6	9.—Sick member seeking work when in receipt of sick pay -	-	-	0 10 0		
4.—Secretary non-attendance -	-	0 1 6	9.—Sick member absent from home after hours when in receipt of sick pay—First offence -	-	0 1 0			
4.—Treasurer late attendance -	-	0 0 4	Second „ -	-	0 2 0			
4.—Treasurer non-attendance -	-	0 1 0	Third „ -	-	0 5 0			
4.—Tyler late attendance -	-	0 0 2	10 & 11.—Sick members neglecting to send medical certificate monthly -	-	-	0 2 0		
4.—Tyler non-attendance -	-	0 0 4	16.—Sick members imposing on sick fund -	-	-	0 10 0		
4.—Members of Committee late attendance -	-	0 0 3						
4.—Members of Committee non-attendance -	-	0 0 6	CLASS VI.					
4.—Delegates not reporting Mission -	-	0 1 0	4.—Delegates sending false statement -	-	1 0 0			
4.—Delegates non-attendance -	-	0 2 0	6.—Secretary sending false application -	-	1 0 0			
7.—Interrupting a member when speaking -	-	0 0 6	6.—Member sending false application -	-	1 0 0			
8.—Swearing & abusive language—First offence -	-	0 0 6						
Second „ -	-	0 1 0	CLASS VII.					
Third „ -	-	0 1 6	3.—Secretary sending false statement -	-	0 5 0			
9.—Interrupting Lodge business -	-	0 1 0						
10.—Member making false charge not to exceed -	-	0 5 0	CLASS VIII.					
10.—Secretary sending report away before being investigated -	-	0 5 0	2.—Secretary illegally granting cheque book -	-	0 5 0			
14.—Secretary neglecting to forward arrears and cheque book -	-	0 1 0	4.—Secretary not stamping and filling up cheque books correctly -	-	0 2 6			
14.—Secretary neglecting to hand in applications and surgeons' certificates to President -	-	0 1 0	10.—Member using abusive language, not to exceed -	-	0 10 0			
15.—Secretaries neglecting to forward properly filled up account sheets -	-	0 1 0	11.—Members neglecting to deliver up cheque books -	-	0 1 0			
15.—Secretary neglecting to affix proper postage -	-	0 0 6	11.—Shop Stewards neglecting to deliver cheque books to Secretary -	-	0 0 6			
15.—Secretary resigning without sufficient reason -	-	0 10 0	11.—Member neglecting his clearance -	-	0 0 6			
16.—Treasurer resigning without sufficient reason -	-	0 10 0	11.—Shop Steward negligent with name to Secretary -	-	0 0 6			
17.—Secretary failing to attend audit -	-	0 1 0	14.—Member obtaining illegal detention money -	-	0 2 6			
17.—Treasurer failing to attend audit -	-	0 1 0	18.—Member calling on Secretary during working hours -	-	0 2 6			
17.—Auditors failing to attend audit -	-	0 1 0						
17.—Auditors neglecting duties -	-	0 2 6						
17.—Auditors giving incorrect report -	-	0 5 0						
18.—Members not attending summoned meeting -	-	0 0 3						
19.—Shop Stewards neglecting to pay money received and leaving office without sufficient reason -	-	0 2 0						
19.—Shop Stewards neglecting to leave address with Secretary -	-	0 0 3						
25.—Secretaries neglecting to forward names of oppositionists and defaulters -	-	0 2 0						
27.—Officials and members sending false number of votes to E. C. -	-	0 10 0						

Appendix
10th Day.
No. 5.

5.—EXTRACT from the RULES of the FRIENDLY SOCIETY OF IRONFOUNDERS OF ENGLAND
IRELAND, AND WALES (A Trade Union.)

(Handed in by Mr. A. Beasley on the Tenth Day. See Question 995.)

LIST OF FINES APPERTAINING TO GENERAL RULES.

RULE II.		£ s. d.	RULE III.		£ s. d.
Section 1, clause 5. ANY officer becoming suspended during the term of his office, to be fined for non-attendance to his duties.			Section 1. PRESIDENT not enforcing fines, to pay them himself		
" 3, clause 1. Refusing to stand nomination to be fined	- - - - -	0 0 6	" 3. Not attending other meetings (except Club nights) in time, to be fined	- - - - -	0 1 0
Refusing to stand after election, to be fined	- - - - -	0 2 0	Not there at all	- - - - -	0 2 0
" 3, clause 2. Retiring officers not delivering up their trust to be suspended.			" 4. Not paying money he receives between Club nights, for each neglect	- - - - -	0 2 6
" 3, clause 3. Not accepting office when roll is called, to be fined each time of refusal	- - - - -	0 0 6	And suspended until the same be paid.		
" 4. Nominating an incompetent person, to be fined	- - - - -	0 1 0	" 5. Not seeing Cheque-book, &c., and all moneys delivered to the parties authorised to receive the same	- - - - -	0 1 0
" 5. Any officer leaving his Branch, not delivering up his trust, to be suspended.			" 7. Not reading the Bye-laws of his Branch each quarterly night	- - - - -	0 1 0
" 6. Any officer misconducting himself during business, to be fined	- - - - -	0 1 0	" 8. Neglecting to give money orders to Secretary for country members' benefits	- - - - -	0 2 6
And ordered to leave the meeting—refusing, to be fined	- - - - -	0 2 6	Rule XI., section 3. Not calling General Meeting when requested by twelve free members	- - - - -	0 2 6
RULE IV.			Rule VIII., section 2. Not attending in time on club-night	- - - - -	0 0 6
Section 3. SECRETARY not sending Monthly Financial Report in time	- - - - -	0 1 0	Not there the whole night	- - - - -	0 1 0
Not sending Monthly Trade Report in time	- - - - -	0 1 0	What damage done to the box, to make it good.		
" 4, clause 4. Not giving the totals to his Financial and other Reports	- - - - -	0 2 6	Rule XXII., section 2. Not enforcing payment for emblems	- - - - -	0 2 6
" 5. Not giving names and dates of excluded members, &c., each omission	- - - - -	0 0 6	Rule III., section 3. VICE-PRESIDENT, not attending meeting in time	- - - - -	0 1 0
" 6. Not sending names of President, Referee, and Treasurer	- - - - -	0 0 6	Not there the whole of the evening	- - - - -	0 2 0
" 7. Not sending a list of foundries to General Office	- - - - -	0 2 6	RULE V.		
			Section 1. CHECK STEWARD not seeing the accounts correct, for each neglect	- - - - -	0 1 0
			Not transferring names in his book when required	- - - - -	0 1 0
			" 1, clause 2. Not seeing box and its contents delivered to the parties authorised to receive the same	- - - - -	0 1 0
			Section 8. Not summoning members when in arrears, each neglect	- - - - -	0 0 6
			" 8. Not giving notice to each succeeding officer of his appointment to office, within three days, for each neglect	- - - - -	0 0 6
			" 8, clause 2. Not summoning country members when in arrears	- - - - -	0 0 6
			" 9. Not sending summons for general meeting	- - - - -	0 2 6
			Not calling names at the commencement and conclusion of meetings	- - - - -	0 0 6
			" 10. Not reading extracts from Reports when ordered, etc.	- - - - -	0 1 0
			" 10. Not reading all correspondence, &c., when ordered	- - - - -	0 1 0
			Neglecting to prepay letters, to pay all expenses incurred.		
			" 11. Neglecting to summon Committee on the retiring of an officer	- - - - -	0 1 0
			" 12. Neglecting to acquaint country members of change of President, or his residence, each neglect	- - - - -	0 0 6
			" 15. Granting card without order from President, each time	- - - - -	0 5 0
			" 15, clause 3. Neglecting to insert on card whether a member has received funeral allowance for wife, &c.	- - - - -	0 1 0
			" 16, clause 2. Paying a traveller full donation when he ought to have been reduced, etc.	- - - - -	0 1 0
			" 17. Neglecting to renew card of travellers when required, &c.	- - - - -	0 1 0
			Not forwarding card to Executive Committee that ought to have been renewed or new cards	- - - - -	0 1 0
			" 18. Not forwarding to General Office name, date, &c., of members going abroad	- - - - -	0 2 6
			Ditto, when returning	- - - - -	0 2 6
			" 20. Neglecting to write for clearances when ordered to do so	- - - - -	0 2 0
			Not sending clearances when ordered to do so	- - - - -	0 2 0
			" 21. Not forwarding Post Office Order received from Sick Steward to country members, &c.	- - - - -	0 10 0
			Not forwarding Post Office Order received from President to country members' donation, &c.	- - - - -	0 2 6
			" 22. Neglecting to pay over in conjunction with Sick Steward, funeral money within twenty-four hours	- - - - -	0 2 0
			Rule VIII., section 2. Not attending Club night in time	- - - - -	0 0 6
			Not there the whole evening	- - - - -	0 1 0
			What damage done to the box to make it good.		
			Rule VIII., section 2, clause 4. Neglecting to summon for arrears, each neglect	- - - - -	0 0 6
			Rule X., section 2. Neglecting to write when a member comes from a distance, and wishing to enter	- - - - -	0 5 0

	£.	s.	d.		£.	s.	d.	
Rule VIII., section 2. Not attending Club night in time - - - - -	0	0	6	RULE X.				
Not there the whole evening - - - - -	0	1	0	Section 4. CANDIDATES FOR MEMBERSHIP neglecting to come forward within two months to forfeit their proposition money.				
What damage done to box to make it good.				" 8. Members failing to pay over proposition money next meeting, to be fined	0	2	6	
Section 2. CASH STEWARD not seeing his accounts correspond with the Secretary and Check Steward's, to be fined for each neglect - - - - -	0	1	0	And suspended until the same be paid.				
" 2, clause 2. Deficient in his cash to make it good with his first contribution.				" 9. Proposing or seconding improper persons - - - - -	1	0	0	
" 2, clause 3. Not seeing box and its contents delivered to the parties authorised to receive the same - - - - -	0	1	0	Any member admitted under false statement to forfeit the amount paid, &c.				
Rule VIII., section 2. Not attending Club night in time - - - - -	0	0	6	RULE XI.				
Not there the whole of the evening - - - - -	0	1	0	Section 3. GENERAL MEETINGS. President not calling General Meeting when requested by twelve free members - - - - -	0	2	6	
What damage done to box to make it good.				If the meeting be considered uncalled for by the majority of the meeting, the members calling it each to pay - - - - -	0	1	0	
Section 3. SICK STEWARD not paying sick members' money when due - - - - -	0	10	0	" 5. Being too late - - - - -	0	0	6	
" 3, clause 3. Not getting Post Office Order and delivering same to the Secretary - - - - -	0	10	0	Not there at all - - - - -	0	1	0	
" 3, clause 5. Neglecting to report to the Committee the health of each sick member - - - - -	0	1	0	" 8. Sending a false apology - - - - -	0	1	0	
" 3, clause 6. Neglecting, in conjunction with Secretary, to pay over funeral money within twenty-four hours - - - - -	0	2	0	" 9. Misconduct, to be fined, for first offence - - - - -	0	0	6	
" 4, clause 2. TREASURER failing to pay over the money he receives between Club nights, if a member, for each neglect - - - - -	0	2	6	For the second - - - - -	0	1	0	
" 5, clause 2. TRUSTEES neglecting to deposit money withdrawn from bank within twelve hours with Treasurer, for each neglect - - - - -	0	2	0	Refusing to leave the meeting when ordered - - - - -	0	5	0	
" 7. REFEREE neglecting to lay correspondence, complaints, etc., before his Branch - - - - -	0	2	6	" 9, clause 2. Insulting or abusing an officer with respect to the discharge of his duties - - - - -	0	5	0	
RULE VI.				" 12. Leaving the meeting without President's leave, the fine to be enforced - - - - -	0	0	6	
Section 2. SHOP STEWARD refusing to accept office - - - - -	0	1	0	" 15. Neglecting to furnish Secretary with name and address - - - - -	0	0	6	
" 4. Neglecting to pay over contributions received from members on the following Club night, for each individual amount and for each successive Club night he neglects - - - - -	0	2	6	Removing and not acquainting secretary - - - - -	0	0	6	
And suspended until the amount be paid.				RULE XIII.				
" 4, clause 2. Neglecting to inform Secretary to write for clearances - - - - -	0	2	0	Section 4. EXECUTIVE COMMITTEE, any member giving a false statement - - - - -	0	10	0	
" 4, clause 4. Neglecting to deliver traveller's card - - - - -	0	1	0	" 5. Refusing to serve after elected - - - - -	0	5	0	
" 4, clause 5. Neglecting to fill up discharge forms - - - - -	0	1	0	" 7, clause 3. Being ten minutes behind time - - - - -	0	0	6	
RULE VII.				Not there at eight o'clock - - - - -	0	1	0	
Section 4, clause 2. COMMITTEE not being in time - - - - -	0	0	6	Absent the whole evening - - - - -	0	2	0	
Not there at all - - - - -	0	1	0	" 9, clause 2. Chairman not enforcing fine to pay it himself.				
RULE VIII.				" 10. Becoming suspended, fined for non-attendance during his suspension.				
Section 2. CLUB NIGHT.—Members neglecting to pay the fourth weekly night - - - - -	0	0	3	" 11. clause 2. Not enforcing fines against Secretaries sending Reports in proper time - - - - -	0	2	6	
" 3. Not paying on the sixth weekly night, suspended one week.				RULE XIV.				
" 3. Not paying on the eighth weekly night, suspended for two weeks, &c.				Section 1. COMPLAINTS. Members appealing to Executive against decision of Branch, Executive deciding against him, to pay - - - - -	0	2	0	
" 3, clause 2. Country members not paying on the eighth weekly night - - - - -	0	0	3	" 2, clause 2. Chairman of Executive Committee not laying complaints of Branches against the Corresponding Secretary, before the Executive Committee, fined - - - - -	0	5	0	
And suspended two weeks, &c.				RULE XV.				
" 6, clause 2. Members under twelve months falling sick, &c., when commencing work to give notice to the Secretary, &c., not doing so - - - - -	0	1	0	Section 4. APPEAL COMMITTEE. President of the Manchester No. 2 Branch neglecting to summon Appeal Committee, &c. - - - - -	0	5	0	
" 6, clause 3. Officer screening a member &c., to pay the fine himself.				" 6. The Branch, or any portion, not complying, &c., to be suspended, &c.				
				" 8. The Executive Committee not complying, &c., to be dismissed.				
				RULE XVI.				
				Section 10. CORRESPONDING SECRETARY neglecting to forward Monthly Trade Report in time - - - - -	0	10	0	
				" 11. Financial Report - - - - -	0	10	0	
				" 13. Leaving without notice, to pay two months' salary.				

Appendix.
10th Day.
No. 5—
continued

	£	s.	d.
Rule XIII., section 9, clause 2. Not enforcing fine against the Executive Committee-men, to pay it himself.			
Rule XIV., Neglect of duties. Fine not to exceed	1	0	0

RULE XVII.

Rule XIII., section 11, clause 3. ASSISTANT CORRESPONDING SECRETARY neglecting his duties, the Executive Committee to fine him	-	-	-	0	2	6
Rule XVII., section 7. Leaving without notice to pay two months' salary.						

RULE XVIII.

Section 5, clause 2. INVESTMENT OF FUND. Secretaries paying or causing to be paid moneys not specified in rule	-	-	-	1	0	0
" 5, clause 3. President, Committee, &c., ordering Secretary, &c., each	-	-	-	1	0	0
And be suspended, &c.						
5, clause 4. Any officer lending money, &c.	-	-	-	1	0	0

RULE XIX.

Section 3. REMITTANCES. President, Referee, and Secretary not acknowledging remittances	-	-	-	0	1	0
" 4. Not depositing remittances with Treasurer	-	-	-	0	2	6
" 5. Branches refusing remittances, to be suspended.						

RULE XXI.

Section 1. SENDING CIRCULARS. Officers or members violating this rule	-	-	-	1	0	0
" 2. Attempting to break up the Society, to be expelled.						
" 3. Asking for footings	-	-	-	0	2	6
Paying footing	-	-	-	0	2	6

RULE XXII.

Section 2. REPORTS AND EMBLEMS. President not enforcing payment for emblems	0	2	6
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RULE XXIII.

Section 2 (note), clause 3. DONATION MEMBERS not forwarding discharge note in time, to forfeit all time omitted. (See N.B., failing to declare off within two days)	-	-	-	0	1	0
„ 3. Recommending a member not entitled, &c., and suspended until paid	0	10	0			
„ 7. Not attending to sign the signature book, forfeit two days' donation, &c.						
„ 7, clause 2. Country members not signing signature book, forfeit three days' donation, &c.						
„ 7, clause 3. Any Member signing vacant book for another in his absence, each offence	-	-	-	0	2	6
„ 10, clause 6. Imposing upon the donation by working at the trade, &c., fined	-	-	-	1	0	0
And his donation stopped, and return the amount received, or be excluded.						
„ 12. Not acknowledging receipt of Post Office Orders within three days, fined	0	1	0			
And no more money forwarded till he has complied.						
„ 14. Claiming donation, and not entitled to it, fined	-	-	-	0	10	0
And his donation stopped, and return the amount received, or be excluded.						
„ 14, clause 2. Members not exerting themselves to obtain employment, to forfeit their donation.						
„ 15. Members residing where there are less than three foundries to forfeit their donation unless they go in search of employment.						

	£	s.	d.
Section 17; Members refusing employment, to forfeit their claim.			
„ 18. Not declaring off donation within two days after commencing work -	0	1	0
„ 18 clause 2. Members not claiming relief, due the same week after commencing, forfeit such relief due.			
„ 21. Members calling upon President or Secretary while at work, each offence	0	5	0

RULE XXIV.

Section 1, clause 3. TRAVELLING. President granting card to members not entitled, fined - - -	1	0	0
Secretary giving certificate to members who have not paid contributions, &c., according to rule, fined - -	1	0	0
„ 2. Members falsely obtaining travelling cards, fined - - -	1	0	0
And certificate to be stopped, and refund the amount received, or be excluded, &c.			
„ 3, clause 2. Defacing card, fined - -	1	0	0
And refund the amount received, or be excluded, &c.			
„ 4. Secretary not renewing travellers' cards when required, fined - -	0	2	6
„ 5. Traveller obtaining work and not returning his card - - -	0	1	0
„ 6. Member losing his card - - -	0	2	6
„ 12. Members whose donation has ceased, and having a blank card, if not signed, &c., to forfeit the same			
„ 13. Members on travel not delivering receipt for moneys paid to the Secretary - - -	0	1	0
„ 14. Travellers calling upon President or Secretary while at their work, fined	0	5	0
„ 16. Any traveller or member on donation at home, doing any injury or committing any nuisance, fined, first offence - - -	0	5	0
Second - - -	0	10	0
Third to be left to the E.C. And make good the injury done.			
„ 17. Travellers' cards not signed every three days in England, &c., once each week in Ireland, to forfeit all amount due above that time, &c.			
„ 18. Travellers obtaining employment, and not delivering card to Shop Steward same day - - -	0	1	0
Where there is no Shop Steward, to the Secretary within two days, or be fined - - -	0	1	0
„ 19. Shop Steward not delivering card to the Secretary, &c. - - -	0	1	0
„ 20. Any member on travel, refusing employment when offered him, forfeit his card, pay all expenses, and fined	0	5	0

RULE XXV.

Section 2, clause 2. MEMBERS ABROAD failing to pay their annual money within the first six months, and within every two years after, to be excluded.						
" 3, clause 4. Member returning, neglecting to give notice to the nearest Secretary one week after landing, fined for each week he neglects	-	-	-	0	1	0
" 3, clause 4. Not paying his contribution, &c., for twelve weeks after returning, to be excluded.						

RULE XXVI.

" 2, clause 2. MEMBERS IN SCOTLAND neglecting to pay their contribution, &c., every three months, to be excluded.						
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Section 4, clause 2. Members returning from Scotland, who have been paying twelve shillings per year, failing to give notice in one week after arriving to the nearest Secretary, to be fined for each week he neglects - 0 1 0
Failing to pay his contribution, &c., for twelve weeks after returning, to be excluded.

RULE XXVII.

Section 2. MEMBERS OF THE SCOTTISH SOCIETY obtaining work in the limits of this Society not paying contribution, &c., according to rule, debt to be forwarded to Glasgow and there dealt with.

RULE XXVIII.

Section 5. SUPERANNUATED MEMBERS not acknowledging receipt of Post Office Order within three days, fined - 0 1 0
And no more to be remitted until the above has been complied with.

RULE XXIX.

Section 6, clause 2. MEMBERS resuming work at the trade to refund the whole amount.

RULE XXX.

Section 1, clause 2. SICK MEMBERS. Any member recommending country members to sick benefit, anything proved wrong after, to be accountable for such recommendations.
" 4. Secretary or Sick Steward neglecting duties - 0 10 0
" 5. Neglecting to forward an acknowledgment of the receipt of Post Office Order sent by Sick Steward and Secretary within three days, fined - 0 1 0
And no more money sent until he has complied.
" 7. Claiming and receiving sick allowance when not entitled to it - 0 10 0
And refund the amount received, or suspended until the same be paid.
" 8, clause 2. Found gaming, or out later, &c., for each and every offence - 0 5 0
And forfeit his week's pay.
" 9. Leaving home without the consent of President or Secretary, sick pay stopped.
" 11. Commencing work and not forwarding sick schedule three days after, fined 0 2 6
" 15, clause 2. Receiving sick pay when he should be receiving donation, or *vice versa*, first offence, 10s.; second, expelled.

Section 15, clause 3. Receiving sick allowance and found imposing, officers to have him examined, to pay the amount, &c., fined - 0 10 0

RULE XXXI.

Section 2, clause 2. FUNERALS. Widows not claiming privilege within three months, to forfeit that privilege.
" 6. All arrears to be stopped out of the funeral allowance - - - -
" 8. Funeral money to be paid by the Secretary and Sick Steward within twenty-four hours, or be fined for each neglect - 0 2 6

LIST OF FINES IN CONNECTION WITH DISPUTE RULES.

Section 1. Member or members voting money contrary to rule, each - 0 10 0
And suspended.
Corresponding Secretary neglecting to lay cases of oppression before the Executive Committee, for each neglect, to be fined - 0 10 0
Executive Committee neglecting to attend to such grievance, to be fined each - 0 3 0
" 2. Members submitting to a stoppage of wages, to be fined - 0 10 0
Or excluded at the decision of the Executive Committee.
" 4. Members drawing card, obtaining employment, not delivering card within two days, to be fined every week - 0 5 0
Refusing employment to forfeit his pay.
Members going to work where an oppression exists, to be expelled at the discretion of the Executive Committee.
Members applying for work without the sanction of the Branch or the Executive, fined for each offence - 0 10 0
5. Secretary not forwarding particulars to Corresponding Secretary, to be fined for each offence - 0 2 6

PIECE - WORK FINES.

Section 2. Taking work contract or by piece, where such system does not at present exist, to be fined for first offence 0 10 0
Second - 1 0 0
Third, to be expelled, subject to the approval of the Executive Committee.

Appendix.
10th Day.
No. 6—
continued.

6.—EXTRACT from the SOUTH WALES COAL ANNUAL, 1903, *re* Sliding Scale Agreements.

Appendix.

10th Day.

No. 6.

(*Handed in by Mr. A. Beasley on the Tenth Day. See Question 1000.*)
And referred to by Mr. Charles Kenshole on the Eighteenth Day. See Question 1730a.

THE FOLLOWING CONSTITUTED THE SLIDING SCALE AGREEMENTS FROM 1892 TO 1902 :—

1892 SLIDING SCALE.

The following Agreement forms the Contract between the Owners of this Colliery as Employers, and the Workmen employed thereat :—

MEMORANDUM OF AGREEMENT made this first day of January, 1892, between the undersigned W. Thomas Lewis, Edward Jones, Edward P. Martin, Edward Davies, Fred L. Davies, William Thomas, T. Forster Brown, A. G. Ogilvie, and James Colquhoun, and the other persons who shall execute this agreement, duly authorised to act on behalf of the members of the Monmouthshire and South Wales Coal Owners' Association, hereinafter called the Employers, not exceeding eleven persons in all, of the one part, and the undersigned William Abraham, David Morgan, Isaac Evans, Morgan Weeks, Thomas Isaac, Daniel Jones, Thomas Davies, Thomas Richards, Alfred Onions, David Beynon, and John B. Jones, duly authorised to act on behalf of the Workmen (except enginemmen, stokers, and outside fitters) employed at the collieries of the members of the said Association of the other part.

1. The said parties hereto are hereinafter styled the Joint Committee, and the said Committee shall be kept on foot by the employers and workmen.

2. The Joint Committee shall have two Secretaries ; one appointed by the employers and the other by the workmen.

3. The number of members on the Joint Committee shall not exceed twenty-two representatives, exclusive of the two Secretaries, eleven acting on behalf of the employers, and eleven acting on behalf of the workmen.

4. The Joint Committee agree upon the following conditions to regulate the rates of wages to be paid to the said workmen at the said collieries as and from the 1st day of January, 1892.

5. This Agreement shall comprise and apply to the whole of the members of the said association excepting as provided under Clause 15.

6. The wages shall be regulated by a Sliding Scale based upon the average nett selling price of coal as ascertained, and from time to time certified by the Accountants.

7. The average nett selling price shall be taken as for large colliery screened coal delivered free on board at Cardiff, Newport, Swansea, and Barry.

8. For coal sold into wagons or otherwise at the collieries the cost of the transit to the ordinary port of shipment shall be added in calculating the average nett selling price, workmen's coal to be excluded.

9. The standard of wages upon which future advances and reductions are to be made shall be the several rates actually paid at the respective collieries for the month of December, 1879, and such wages shall be equivalent to a standard average nett selling price of 7s. 10½d. and under 8s. per ton. Provided that at the collieries where the standard or basis upon which wages are now regulated is the rate of wages paid in the year 1877, that shall continue to be the standard for those collieries.

9a. It is hereby agreed with respect to all collieries or portions of collieries now belonging to or hereinafter acquired or opened by the members of the Monmouthshire and South Wales Coal Owners' Association, that both the employers and the workmen shall be bound to observe and fulfil all customs, provisions and conditions existing in December, 1879, at the associated collieries, and no variation shall be made therein either by employers or workmen, except by mutual agreement between the employers and their workmen, or between their respective representatives.

10. The wages shall be advanced or reduced at the end of each period of two months by additions or reductions of 1½ per cent. upon the mean monetary result found by the joint Auditors, as between the scale dated 6th June, 1882, and the scale dated 15th January, 1890.

11. There shall be no maximum or minimum in the scale of wages under this agreement.

12. Two Accountants shall be appointed, one by the employers and the other by the workmen, to ascertain the average nett selling price of coal ; such average nett selling price for two months ending the last day of February shall govern the wages from the first day of April to the last day of May, and so on for every successive two months.

13. The Accountants shall give a certificate of the nett average selling price for each of the above periods of two months, such certificate to be forwarded to the joint Secretaries, and afterwards upon the authority of the Joint Committee to be made known to the employers and workmen.

14. Any contract for the sale of coal for a period of more than twelve months shall not be taken into account for more than six successive audits of two months each.

15. The Accountants shall not take into account in the audits any coal produced from the Anthracite Collieries.

16. The Joint Committee shall meet at least once in each month.

17. Both parties to this Agreement pledge their respective constituents to make every effort possible to avoid claims or disputes at the collieries, and that in case of any unavoidable differences, the owners and their officers, together with their workmen, shall endeavour to settle all matters, at the collieries, and only in case of failing to effect a settlement shall an appeal be made to the Joint Committee. It is also hereby agreed that in such cases no notices to terminate contracts shall be given by either employers or workmen, before the particular question in dispute shall have been considered by the Joint Committee, and they shall have failed to arrive at an agreement.

18. That at the collieries under this Agreement all wages due to workmen shall be paid once in each fortnight, provided that at those collieries where wages are now paid weekly such practice shall continue in force.

19. The wages payable for the month of January, 1892, shall be 46½ per cent. above the standard of December, 1879. An audit for the period 1st October to 31st December, 1891, shall be taken to govern wages under this Agreement for the two months commencing 1st February, 1892.

20. The mineral to be gotten is clean large screened coal only hereinafter described :—

The cutting price to be paid colliers includes all services in respect of the small coal necessarily produced in getting the large coal, in conveying it from the working places to the screen at the surface, and in the process of screening, that price being equal to the value of all services involved in getting such large and small coal in compliance with the provisions of the Coal Mines Regulation Act, 1887, and being more than the value of the services rendered in respect of the large screened coal only.

The weight of the large screened coal for the purpose of paying the colliers shall be ascertained as follows :—

After each tram is brought to the surface it shall be weighed at the weighing machine and then tipped over the screen in use at the colliery to separate the large coal passing over it and the small coal passing through it, the tare being deducted from its gross weight.

The small coal which has passed through the screen shall be weighed, and that weight shall be deducted from the gross weight of the coal in the tram to ascertain the nett weight of the large screened coal, and

upon the weight of such large screened coal the wages shall be paid, which shall cover all the services rendered by the colliers in respect of the large coal and the small coal as weighed together at the machine.

20a. It is distinctly understood that Clause 20 in this Agreement is not intended to change the system of weighing, screening, and paying for coal as heretofore, except by mutual arrangement.

21. This Agreement shall continue in force for six months, from the 1st January, 1892, and thenceforth until either party gives six months' notice of termination, such notice to be given on the 1st day of July, 1892, or on the first day of any succeeding January or July.

22. A copy of this Agreement is to be placed in a Contract Book at each colliery of the Members of the Monmouthshire and South Wales Coal Owners' Association, which shall be signed by or on behalf of the owners of such colliery, and also by each workman employed at such colliery as one of the terms of the engagement between the employers and the said workmen.

23. It is hereby agreed that all notices to terminate contracts on the part of the employers as well as employed shall be given only on the first day of any calendar month, and terminate upon the last day of the same month.

W. THOMAS LEWIS.
EDWARD JONES.
EDW. P. MARTIN.
EDWARD DAVIES.
FRED. L. DAVIES.
W. THOMAS.
T. FORSTER BROWN.
GRAEME OGILVIE.
JAS. COLQUHOUN.

WILLIAM ABRAHAM.
D. MORGAN.
ISAAC EVANS.
MORGAN WEEKS.
T. D. ISAAC.
DANIEL JONES.
THOMAS DAVIES.
THOMAS RICHARDS.
ALFRED ONIONS.
DAVID BEYNON.
JOHN B. JONES.

Witness to the signatures of the parties hereto.

W. GASCOYNE DALZIEL.
LEWIS MILES.

Dated this first day of January, 1892.
For the owners of the said colliery.

.....Manager.

Appended is form of heading to Contract Book under Clause 22 of the foregoing Agreement :—

.....Colliery.
CONTRACT BOOK.

Signature of Workman.	Attesting Witness to Signature.	Date of Signature.	Date of Notice by Workmen to terminate Contract.	Date of Notice by Employers to terminate Contract.

MODIFICATION OF THE PRECEDING AGREEMENT, MADE IN 1893.

In 1893 the following Clause was added to the 1892 Agreement :—

3. It is hereby further agreed that notwithstanding Clauses 5 and 15 respectively of the Agreement of the 1st of January, 1892, the Large Colliery Screened Coal produced from the Anthracite Collieries in the Monmouthshire and South Wales Coal Owners' Association, and shipped at Llanelly or other South Wales Ports, or sold into wagons as per Clause 8 of the same Agreement, shall henceforth be taken into account in the audits, and included with the coals from other collieries in obtaining the average nett selling price, and this Agreement as well as the whole of the other provisions in the Agreement of the 1st January, 1892, shall apply to the workmen employed at the said Anthracite Collieries.

FURTHER MODIFICATION ADOPTED IN 1898.

THE AGREEMENT SO MODIFIED REMAINED IN OPERATION UNTIL THE 31ST DECEMBER, 1902.

On the 1st September, 1898, it was agreed that the above Agreement should be operative until the 1st January, 1903, with the following additional Clauses :—

The monthly holiday, known as Mabon's Day, shall be abolished, and no other holiday of a like nature will be permitted.

If after the 1st day of September, 1899, the employers by virtue of this Agreement reduce the wages of the workmen below 12½ per cent. above the standard of December, 1879, the workmen shall have the right of giving six months' notice to terminate this Agreement on the first day of January or July next ensuing.

On 1st July, 1902, the Miners gave the Employers notice to terminate the Sliding Scale Agreement on the 1st January, 1903. Negotiations for a new agreement were commenced on the 27th October, 1902, and continued until March 31st, 1903, when the following Agreement was made.

The chief feature of this Agreement is the Regulation of Wages by a Board of Conciliation with an independent Arbitrator in place of a sliding Scale.

AGREEMENT OF 1903.

(TO REMAIN IN FORCE UNTIL 31ST DECEMBER, 1905.)
MEMORANDUM OF AGREEMENT MADE THIS 31ST DAY OF MARCH, 1903, BETWEEN THE UNDERSIGNED :

William Jenkins, Edward Jones, Fred L. Davis, Charles H. Eden, M. Wolstenholme, Joseph Shaw, Henry Davies, J. Boyd Harvey, H. E. Gray, Thomas H. Deakin, W. S. B. M'Laren, William Evans, William Smith, H. W. Martin, Hugh Watts, Thomas Griffiths, Fred Cleeves, W. W. Hood, Hugh Bramwell, Thomas Wilson, W. D. Wight, and H. T. Wales—duly authorised to act on behalf of the owners of Collieries in Monmouthshire and South Wales, whose names or titles are set forth in the schedule hereto (hereinafter called the owners), of the one part ; and the undersigned :—

William Abraham, W. Brace, Alfred Onions, David Beynon, Evan Thomas, David Watts Morgan, John Thomas, Thomas Evans, Enoch Morrell, Charles B. Stanton, Thomas Thomas, John Davies, Ben Davies, John Williams, Thomas George, Thomas James, James Winstone, Vernon Hartshorn, James Manning, John Kemp, George Barker, William Vyce, W. E. Morgan, and John David Morgan—duly authorised to act on behalf of the workmen (excepting enginemen, stokers, and outside fitters) now employed at the collieries of the said owners, of the other part ; whereby it is mutually agreed as follows :

1. That a board of conciliation shall be established to determine the general rate of wages to be paid to the workmen and to deal with disputes at the various collieries of the owners subject to the conditions hereinafter mentioned.

2. The title of the board shall be " The Board of Conciliation for the Coal Trade of Monmouthshire and South Wales," hereinafter called " the board."

3. The board shall consist of twenty-four duly authorised owners' representatives and twenty-four duly authorised representatives of the workmen employed at the collieries of the owners, and when dealing with questions relating to general advances or general reductions in the rate of wages, also of a chairman from outside who shall not be financially interested in any coal mine in the United Kingdom, and who shall have a casting vote only.

The first members of the board shall be the chairman from outside, as aforesaid, and who is hereinafter called " the chairman," and the following :—

Owners' Representatives.—William Jenkins, Edward Jones, Fred L. Davis, Charles H. Eden, M. Wostenholme, Joseph Shaw, Henry Davies, J. Boyd Harvey, H. E. Gray, T. H. Deakin, W. S. B. M'Laren, William Evans, William Smith, H. W. Martin, Hugh Watts, Thomas Griffiths, Fred Cleeves, W. W. Hood, T. Forster Brown, Thomas Wilson, Clifford J. Cory, H. T. Wales, Edmund Mills Hann, and W. J. Heppell.

Appendix.

10th Day.
No. 6—
continued.

Appendix.
—
10th Day.
No 6—
continued.

Workmen's Representatives.—William Abraham, W. Brace, Alfred Onions, David Beynon, Evan Thomas, David Watts Morgan, John Thomas, Enoch Morrell, Thomas Evans, Charles B. Stanton, Thomas Thomas, John Davies, Ben Davies, John Williams, Thomas George, Thomas James, James Winstone, Vernon Hartshorn, James Manning, John Kemp, George Barker, William Vyce, William E. Morgan, and John D. Morgan, of whom there shall be two presidents—one elected by the owners' representatives and the other by the representatives of the workmen.

Whenever a vacancy on the board occurs from any cause (except in the office of chairman) such vacancy shall be filled within one month of its occurrence by the body which appointed the member whose seat has become vacant, but during such vacancy the board may transact the business of the board. Intimation of such appointment shall be at once sent to the secretaries. When and so often as the office of chairman becomes vacant the board shall endeavour to elect a chairman, and should they fail to agree will ask the Lord Chief Justice of England for the time being, or, in case of his refusal, the Speaker of the House of Commons, to nominate one.

5. The parties to this agreement pledge their respective constituents to make every effort possible to avoid difficulties or disputes at the collieries, and in case of any unavoidable difference the owners or their officials, together with their workmen or their agent or agents, shall endeavour to settle all matters at the collieries, and only in case of failing to effect a settlement shall a written appeal be made to the board by either or both of the parties concerned in the dispute to consider the same, and no notice to terminate contracts shall be given by either owners or their workmen before the particular question in dispute shall have been considered by the board and it shall have failed to arrive at an agreement. The board shall have power to refer such questions to a committee consisting of one or more owners' representatives and an equal number of workmen's representatives, all of whom shall be members of the board to consider, and if so directed, with power to settle, and in all cases to report either a settlement or failure to agree to the board within three calendar months from the date of the reference to such committee, and should the board then fail to arrive at an agreement within one month, or any extended period that may be agreed upon by the board, either party may give notice to terminate contracts.

6. Rules of procedure for the conduct of the business of the board are set forth at the end hereof, and the same shall be deemed to be incorporated with and to form part of this agreement.

7. The mineral to be gotten is clean large coal only, as hereinafter described.

The cutting prices to be paid to the collier shall be the several standard prices prevailing and paid at the collieries of the owners respectively.

Such standard cutting price shall be paid upon the weight of the large coal, to be ascertained in manner hereinafter appearing, and includes all services in respect of the small coal necessarily produced in filling the large coal in conveying it from the working places to the screen at the surface and in the process of screening, that price being equal to the value of all the services involved in getting such large coal and small coal, and being more than the value of the services rendered in respect of the large coal only.

The respective weights of such large coal and small coal for the purpose of paying the collier shall be ascertained as follows:—

After each tram of coal is brought to the weighing machine it shall be weighed and the tare of the tram shall be deducted from the gross weight. The coal shall then be tipped over the screen in use at the colliery to separate the small coal passing through the screen from the large coal passing over it.

The small coal which shall pass through the screen shall be weighed, and that weight shall be deducted from the gross weight of the coal in the tram in order to ascertain the weights of such large screened coal and small coal respectively, and the cutting price paid to the collier upon the weight of the large screened coal as aforesaid shall during the continuance of this agreement be deemed to be the value of the services rendered in respect of both the large screened coal and small coal, the weights of which respectively shall be ascertained as aforesaid.

8. It is distinctly understood that Clause 7 in this agreement is not intended to change the system of weighing and screening the coal as it at present exists, but the owners shall be at liberty to adopt such improved methods of screening as they may consider necessary, provided that any methods so adopted shall not in any way prejudicially affect the wages of the workmen.

9. Clause 7 shall not apply to or alter or in any way interfere with any agreements now existing or hereafter to be made for payment for through and through coal, or where small coal is now separately paid for.

10. The board shall at the meetings held under Rule 6 of the said rules of procedure determine the general rate of wages to be paid for the three months commencing on the first day of the month following the dates of such meetings, but should neither party desire to vary the rate of wages the then prevailing rate of wages shall continue until the same shall be varied in accordance with the said rules of procedure.

(a) All standard rates and prices shall be the standards known as the standards of December 1879 and 1877 respectively.

(b) The wages payable to the workmen shall as from the date of this agreement and until the same shall be advanced or reduced by the board be 48½ per cent. above the several rates actually paid at the respective collieries under the standard of December, 1879.

(c) During the continuance of this agreement the rate of wages shall, subject to Sub-section D hereof, not be less than 30 per cent. above nor more than 60 per cent. above the December, 1879, standard of wages paid at the respective collieries, and in considering any proposal for an alteration in the general rate of wages the said minimum of 30 per cent. shall for that purpose be considered as equivalent to such an average nett selling price per ton of large coal not being less than 11s. 3d. nor more than 12s. 3d., as shall be forthwith determined by an independent person to be agreed upon by the parties, or, failing an agreement, to be nominated by the Lord Chief Justice of England, or, in case of his refusal, by the Speaker of the House of Commons. Such average nett selling price shall be taken as for large colliery screened coal, delivered f.o.b. at Cardiff, Barry, Newport, Swansea, and Llanelly.

(d) At collieries where the standard or basis upon which wages are now regulated is the rate of wages paid in the year 1877 the percentage payable thereat shall be 15 per cent. less than at the collieries where the 1879 standard prevails, provided that in cases where workmen have hitherto been paid nett rates of wages or fixed or other percentages whether upon the 1877, 1879 standards or any other existing standards they shall continue to be paid such nett rates, fixed or other percentages only.

11. At the collieries under this agreement all wages due to the workmen shall be paid once in each fortnight, provided that at those collieries where wages are now paid weekly such practice shall continue in force.

12. A question having been raised by the owners as to the prices to be charged to workmen entitled to house coal for their own domestic purposes, it is agreed that the coal-field shall be divided into not more than ten sections, to be settled by the two chairmen and secretaries of the committee negotiating this agreement; or, failing them, by a third party to be nominated by them in advance, such division to be settled not later than April 30th, 1903.

The prices to be paid for house coal in the various sections shall be first considered by the board, and in the event of their failing to agree by the 30th of May, 1903, shall be fixed by the person to be appointed under Clause 10, sub-section c of this agreement, who shall give his decision not later than June 30th, 1903.

In fixing the prices to be paid regard shall be had to the cost of production, the origin and conditions under which coal has been supplied to the workmen hitherto, also the quantity and quality of the same, and the period of supply in the different sections.

13. During the continuance of this agreement all notices to terminate individual contracts on the part of the owners as well as on the part of the workmen shall be given on the first day of any calendar month and shall terminate upon the last day of the same month, provided that if the first

day of any calendar month fall on a Sunday, the notice shall be given on the previous Saturday.

14. Subject as aforesaid the owners and workmen at the respective collieries shall be bound to observe and fulfil and shall be subject to all customs, provisions, and conditions existing in December, 1879, at the collieries respectively, and no variation shall be made therein by the owners or workmen except by mutual arrangement at the collieries respectively or by a decision of the board after a reference thereto in accordance with the provisions of Clause 5 of any proposal for a variation.

15. Nothing in the clauses of this agreement or in the rules of procedure is to preclude either party bringing any matters before the board or independent chairman, which they consider as factors bearing upon the general wage question, but any evidence brought forward as to the selling price of coal shall be confined to the three calendar months immediately preceding the first day of the month in which the meeting is held.

16. This agreement shall continue in force until the 31st of December, 1905, and shall then terminate unless an agreement shall have been made before that date between the parties for an extended period. Upon the termination of this agreement, all contracts of service between the owners respectively and their workmen respectively shall terminate.

17. A copy of this agreement shall be placed in a contract book at each colliery, which shall be signed by or on behalf of the owners of such colliery, and also by each workman employed thereat as one of the terms of the engagement between the owners and the said workman.

RULES OF PROCEDURE.

1. The constituents of the board, i.e., owners' representatives and workmen's representatives, are, for brevity, herein referred to as the "parties."

2. The meetings of the board shall be held at Cardiff or such other place as the board may from time to time determine.

3. Each of the parties shall appoint a secretary and shall give notice of such appointment when made to the other party, and such secretaries shall remain in office until they shall resign or be withdrawn by the parties appointing them. The secretaries or their respective deputies for the time being shall attend all meetings of the board, and be entitled to take part in the discussion, but they shall have no power to move or second any resolution, or vote on any question before the board.

4. The secretaries shall conjointly convene all meetings of the board and record the names of the persons present thereat and at all meetings held under Rule 6 of the rules of procedure; full minutes of the proceedings thereof shall be taken under the conjoint supervision of the secretaries by an official shorthand writer, to be mutually agreed on by the parties, which minutes shall be transcribed into duplicate books, and each such book shall be signed by the presidents or other persons presiding at the meeting at which such minutes are confirmed. One of such minute-books shall be kept by each of the secretaries, such minutes to be for the private use of the board, and not for publication. The secretaries shall also conduct correspondence for their respective parties and conjointly for the board.

5. The board shall meet once at least in each month for the purpose of dealing with difficulties or disputes arising at the several collieries and referred to in Clauses 5 and 14 of the foregoing agreement, and the same shall be dealt with by the board without reference to the chairman. The secretaries shall give to each member of the board five days' notice of the intention to hold any such meeting and of the business to be transacted thereat.

6. Should there be a desire by either party to vary the rate of wages the board shall meet to consider the same on the 14th day of the months of February, May, August, and November in every year (except where the 14th day of any of the said months fall on a Sunday, when the meeting shall be held on the following day), to determine the general rate of wages to be paid for the three months commencing on the first day of the month next following the date of such meetings. Either party intending to propose at such meetings any alteration in the general rate of wages shall, ten days before the said 14th day of the

months of February, May, August, and November for holding such meetings, give to the secretary of the other party notice in writing of the proposition intended to be made and of the grounds thereof, and the secretaries shall enter such intended proposition and the grounds thereof on the agenda to the notice convening the meeting. The secretaries shall send to each member of the board seven days' notice of each such meeting and of the business to be transacted thereat.

At all such last-mentioned meetings the questions to be dealt with thereat shall in the first instance be considered by the board, it being the desire and intention of the parties to settle any differences which may arise by friendly conference, if possible. If the parties on the board cannot agree, then the meeting shall be adjourned for a period not exceeding seven days, to which adjourned meeting the chairman shall be summoned and shall attend and preside thereat, when the questions in difference shall be again discussed by the parties, and in the event of their failing to arrive at an agreement with regard thereto, the chairman, either at such meeting or within seven days thereafter, shall give his casting vote on such questions, and the parties shall be bound thereby.

7. Both presidents shall preside at all meetings (other than at meetings at which it shall be the duty of the chairman to preside in accordance with Clause 6 of these rules), but if either or both of them shall be absent, then a member or members of the board shall be elected by the respective parties to preside at such meetings according as such president who shall be absent shall represent the owners or workmen. The presidents or other persons presiding shall vote as representatives, but shall have no other votes.

8. All questions submitted to the board shall be stated in writing, and may be supported by such verbal, documentary, or other evidence and explanation as either party may submit, subject to the approval of the board.

9. Each party shall pay and defray the expenses of its own representatives, secretary, and accountant, but the costs and expenses of the chairman, official shorthand writer, and of the stationery, books, printing, and hire of rooms for meeting shall be borne by the respective parties in equal shares.

SCHEDULE

REFERRED TO IN THE PREAMBLE OF THIS AGREEMENT.

Abercraze Collieries Co., Albion Steam Coal Co., Ltd., Ammanford Colliery Co., Ltd., Bargoed Coal Co., Ltd., Blaenavon Co., Ltd., Blaenlydach Colliery Co., Ltd., Blaina Colliery Co., Ltd., Bwlfa and Merthyr Dare Steam Collieries (1891), Ltd., Cardiff Navigation Colliery Co., Cartwright, T. G., Corrwg Rhondda Colliery Co., Ltd., Cory Bros. and Co., Ltd., Crawshay Bros., Cyfarthfa, Ltd., Cwmaman Coal Co., Ltd., Davis, D and Sons, Ltd., Deep Navigation Collieries, Ltd., Dinas Main Coal Co., Ebbw Vale Steel, Iron, and Coal Co., Ltd., Evans and Bevan, Ffaldau Collieries Co., Ltd., Foxhole Collieries Co., Ltd., Gas Coal Collieries, Ltd., Glamorgan Coal Co., Ltd., Glyncoerrwg Colliery Co., Ltd., Glynea Coal and Brick Co., Ltd., Glenavon Rhondda Collieries Co., Ltd., Graigola Merthyr Co., Ltd., Great Mountain Collieries Co., Ltd., Great Western Colliery Co., Ltd., Guest, Keen, & Nettlefolds, Ltd., Gwaun-cae-Gurwen Colliery Co., Ltd., Gwendraeth Anthracite Collieries Co., Ltd., Harry David and Bros., Hedley's Collieries Co., Hill's Plymouth Co., Ltd., Hoskins and Llewellyn, Insoles, Ltd., International Coal Co., Ltd., Lancaster, John, and Co., Ltd., Lewis Merthyr Consolidated Collieries, Ltd., Locket's Merthyr Collieries (1894), Ltd., Main Colliery Co., Ltd., Marquess of Bute; Marquess of Bute, The Trustees of the; Monmouthshire and Cwm Collieries Co., New Cross Hands Collieries, Ltd., Newport Abercarn Black Vein Steam Coal Co., Ltd., Nixon's Navigation Co., Ltd., North's Navigation Collieries (1889), Ltd., Ocean Coal Co., Ltd., Partridge, Jones, & Co., Ltd., Penrikyber Navigation Colliery Co., Ltd., Pentremawr Colliery Co., Ltd., Pont-henry Colliery Co., Ltd., Pontyberem Collieries Co., Ltd., Powell Duffryn Steam Coal Co., Ltd., Powell's Tillery Steam Coal Co., Ltd., Pwllbach Colliery Co., Rhymney Iron Co., Ltd., Rhos Colliery Co., Ltd., South Wales Anthracite Colliery Co., Ltd., South Wales Primrose Coal Co., Ltd., Thomas, Griffith; Thomas, Samuel; Tirpentwys Black Vein Steam Coal and Coke Co., Ltd., Tredegar Iron and Coal Co., Ltd., United National Collieries, Ltd., Universal

Appendix.

10th Day.
No. 6—
continued.

Appendix.
—
10th Day.
No. 6—
continued,
and No. 7.

Steam Coal Co., Ltd., Vipond, John & Co., Ltd., Vivian & Sons, Varteg Deep Black Vein Collieries, Ltd., Williams, Representatives of the late E. D., Williams, Thomas, & Sons, Ynishir Steam Coal Co.

The Right Honourable Viscount Peel, the late Speaker of the House of Commons, has been appointed the "Chairman from outside," under Clause 3 of the above agreement.

Sir David Dale, Bart., has been appointed the "Independent Person," to decide (under Clause 10 of the Agreement) the nett selling price of coal which is to be considered the equivalent of the minimum wage. The same gentleman

will decide (under Clause 12) the prices to be paid by the miners for house coal.

Under the new Agreement the wages from the 31st March stood at 48½ per cent. above the standard of 1879.

On the 21st May, 1903, the first reference was made to the "Independent Chairman," the Owners having demanded a reduction of 5 per cent. as from the 1st June, 1903. After hearing both sides, Lord Peel decided against the Owners. The wages for the three months of June, July, and August, 1903, therefore remain at 48½ per cent. above the standard.

7.—RETURN OF STRIKES from all CAUSES at COLLIERIES in the SOUTH WALES and MONMOUTH-SHIRE COALFIELD, 1894 to 1902 INCLUSIVE.

[Compiled from the Board of Trade Returns.]

(Handed in by Mr. A. Beasley on the Tenth Day. See Question 1001.)

Page of Return.	Year.	Number of Strikes.	Number of men affected.		Total.	Aggregate duration of stoppage (days).	Aggregate number of days' work lost.
			Directly.	Indirectly.			
120	1894	43*	16,734	5,071	21,805	918	244,513
124	1895	27	16,265	3,107	19,372	483	236,602
45	1896	31	13,562	4,610	18,172	847	212,245
28	1897	22	4,361	4,320	8,681	628	130,314
28	1898	18	104,294	3,323	107,617	454	15,618,712
25	1899	27	12,473	9,566	22,039	473	193,654
22	1900	52	105,396	11,714	117,110	652	229,463
4	1901	14	18,704	3,431	22,135	246	736,215
84	1902	32	38,739	17,822	56,561	183	283,237

* No figures given in 5 of these 43 cases.

8.—RETURN of STRIKES in the SOUTH WALES and MONMOUTHSHIRE COALFIELD ENTERED UPON with the OBJECT of COMPELLING the NON-UNION MEN to JOIN the MINERS' UNION, 1894 to 1902 INCLUSIVE. Appendix.
10th Day.
No. 8.

[Compiled from the Board of Trade Returns.]

(Handed in by Mr. A. Beasley on the Tenth Day. See Question 1010.)

Name of Place.	No. of Men Affected.		Duration of Stoppage.	No. of Days.	Result.
	Directly.	Indirectly.			
			1894. Nil.		
Maesteg - - - -	57	340	1895. 1st to 7th August.	7	Non-unionists joined the Union.
New Tredegar - - -	2,000	—	1896. 14th to 16th July.	3	Men left the District.
Port Talbot - - -	254	—	29th Sept. to 3rd Oct.	5	All but one of the Non unionists joined the Union.
Aberdare - - - -	120	1,280	1897. 1st to 8th July.	—	Non-unionists joined the Union or removed elsewhere.
*Aberaman - - - -	900	—	1898. 13th September.	1	Work resumed unconditionally.
Tredegar - - - -	500	100	1899. 18th to 19th August.	—	Non-unionists joined the Union.
Porth - - - -	90	15	7th September.	2	Work resumed unconditionally.
Nantymoel - - - -	800	—	1900. 23rd to 28th April.	6	Non-unionists joined the Union.
Neath - - - -	534	—	1st to 5th September.	5	" "
Penrhiwceiber - - -	1,230	90	1st to 6th August.	6	" "
Ammanford - - - -	295	—	25th to 29th August.	5	" "
Abertillery - - - -	1,800	—	17th September.	1	Non-unionists joined the Union or left their employment.
Treorchy - - - -	900	—	1st October.	1	Non-unionists joined the Union
Rhondda Valley - - -	6,000	—	1st to 4th October.	4	" "
" " - - - -	2,000	—	1st to 5th October.	5	" "
Porth - - - -	1,493	—	1st November.	1	" "
Treharris - - - -	1,720	—	1901. 1st to 4th July.	4	" "
Merthyr - - - -	2,500	—	1st to 10th August.	10	" "
Blaengarw - - - -	800	245	1st to 9th September.	9	" "
Pontypridd - - - -	850	—	25th September.	1	" "
" - - - -	1,025	100	1902. 1st to 5th March.	5	" "
Dowlais - - - -	3,400	26	30th April to 5th May.	6	" "
Pontypridd - - - -	1,400	25	8th May.	1	" "
" - - - -	1,400	50	12th to 21st May.	10	" "
Aberdare - - - -	1,180	6	20th to 30th June.	11	" "
Llantrisant - - - -	708	148	29th and 30th June.	2	" "

* For dismissal of men who worked during the general strike.

Appendix.
10th Day.
No. 8—
continued.

Name of Place.	No. of men affected.		Duration of Stoppage.	No. of Days.	Result.
	Directly.	Indirectly.			
Merthyr - - -	5,030	170	1902 30th June to 7th July.	8	Non-unionists joined the Union.
Pontypridd - - -	1,700	—	1st to 11th July.	11	" "
*Tredegar - - -	2,524	—	22nd to 24th July.	3	Man paid arrears.
Treorchy - - -	1,460	159	1st to 9th August.	9	Non-unionists joined the Union.
Ystrad - - -	1,040	—	1st October.	1	" "
Abercarn - - -	1,600	—	22nd to 25th October.	4	" "

* Men refused to work with a man who was in arrears with his subscriptions to the Union.

SUMMARY.

Year.	Number of Strikes.	Number of Men affected.		Total.	Aggregate Number of Days Collieries Idle.	Aggregate Number of Days' Work Lost by Stoppages.
		Directly.	Indirectly.			
1894	—	—	—	—	—	—
1895	1	57	340	397	7	2,779
1896	2	2,254	—	2,254	8	7,270
1897	1	120	1,280	1,400	8	11,200
1898	1	900	—	900	1	900
1899	2	590	115	705	3	1,305
1900	9	15,637	90	15,727	69	55,058
1901	4	5,870	245	6,115	24	42,135
1902	12	22,667	684	29,351	71	147,547

ELEVENTH DAY.

1.—COMPARATIVE STATEMENT of the OUTPUT of COAL and NUMBER of PERSONS EMPLOYED
at the COLLIERIES in the SOUTH WALES COALFIELD and the UNITED KINGDOM for the
SEVEN YEARS 1897 to 1903 inclusive.

Appendix.
11th Day.
No. 1.

1.—COMPARATIVE STATEMENT of the OUTPUT of COAL and NUMBER of PERSONS EMPLOYED at the COLLIERIES in the SOUTH WALES COALFIELD and the UNITED KINGDOM for the SEVEN YEARS 1897 to 1903 inclusive.

(Handed in by Mr. A. Beasley on the Eleventh Day. See Question 1019.)

COUNTY.	Year.	OUTPUT.						PERSONS EMPLOYED.						Tons raised per man per annum.		
		Tons.	INCREASE. Compared with previous year.			DECREASE. Compared with previous year.			Below Ground.	Above Ground.	Total.	INCREASE. Compared with previous year.				DECREASE. Compared with previous year.
			Tons.	Per cent.	Tons.	Per cent.	Tons.	Per cent.				Number.	Per cent.	Number.		
GLAMORGANSHIRE	1897	25,112,551	1,482,140	6.26	—	—	—	77,048	13,072	90,120	1,107	1.24	—	—	325	278
	1898	19,140,742	—	—	5,971,809	23.77	—	78,184	13,762	91,946	1,826	2.02	—	—	244	208
	1899	28,116,941	8,976,199	46.89	—	—	—	79,613	14,495	94,108	2,162	2.35	—	—	353	298
	1900	27,686,758	—	—	430,183	1.52	—	89,040	16,234	105,274	11,166	11.86	—	—	310	263
	1901	27,708,841	22,083	.08	—	—	—	91,099	16,084	107,183	1,909	1.81	—	—	304	258
	1902	29,077,439	1,368,598	4.93	—	—	—	92,236	16,193	108,429	1,246	1.16	—	—	315	268
	1903	29,375,397	297,858	1.02	—	—	—	93,944	16,298	110,242	1,813	1.67	—	—	312	266
MONMOUTHSHIRE	1897	9,307,304	465,925	5.27	—	—	—	26,267	4,626	30,893	918	3.06	—	—	354	301
	1898	6,059,509	—	—	3,247,795	34.88	—	25,743	4,622	30,365	—	—	528	1.70	235	199
	1899	10,103,067	4,043,558	66.72	—	—	—	26,973	4,871	31,844	1,479	4.87	—	—	374	317
	1900	9,818,829	—	—	284,238	2.81	—	29,158	5,465	34,623	2,779	8.72	—	—	336	283
	1901	9,598,407	—	—	220,422	2.24	—	29,689	5,317	35,006	383	1.10	—	—	323	274
	1902	10,175,461	577,054	6.02	—	—	—	31,447	5,390	36,837	1,831	5.23	—	—	323	273
	1903	10,671,432	495,971	4.87	—	—	—	33,721	5,514	39,235	2,398	6.11	—	—	316	272
BRECONSHIRE	1897	298,655	26,050	9.55	—	—	—	932	151	1,083	—	—	167	13.24	320	275
	1898	317,085	18,430	6.17	—	—	—	1,118	198	1,316	233	21.51	—	—	283	240
	1899	383,465	66,380	20.82	—	—	—	1,222	222	1,444	128	9.72	—	—	313	265
	1900	440,682	57,217	14.92	—	—	—	1,414	239	1,653	209	14.47	—	—	311	266
	1901	442,194	1,512	.34	—	—	—	1,380	269	1,649	—	—	4	—	320	268
	1902	431,769	—	—	10,425	2.26	—	1,542	284	1,826	77	4.66	—	—	280	236
	1903	413,919	—	—	17,850	4.13	—	1,536	306	1,842	16	0.87	—	—	269	224

JARMARTHENSHIRE		1897	1,006,613	—	—	37,055	3,55	3,248	857	4,105	—	—	316	7-14	309	244
	Strike	1898	1,123,898	118,285	11-74	—	—	3,653	975	4,628	523	12-74	—	—	307	242
		1899	1,207,205	73,307	6-50	—	—	3,880	1,004	4,884	256	5-53	—	—	311	247
		1900	1,333,800	126,595	10-48	—	—	4,518	1,141	5,659	775	15-87	—	—	295	235
		1901	1,417,427	83,627	6-22	—	—	4,816	1,295	6,111	452	7-98	—	—	294	231
		1902	1,571,613	154,186	10-86	—	—	5,458	1,492	6,950	840	13-74	—	—	287	226
		1903	1,631,749	60,136	3-52	—	—	5,727	1,574	7,301	351	4-80	—	—	280	223
		1897	82,287	1,409	1-74	—	—	385	154	539	—	—	7	1-30	224	152
		1898	82,384	117	1-14	—	—	390	168	558	19	3-52	—	—	211	147
		1899	59,419	—	—	22,965	27-87	293	109	402	—	—	156	27-90	202	147
PEMBROKESHIRE	Strike	1900	48,140	—	—	11,279	18-98	311	132	443	41	10-19	—	—	154	108
		1901	42,190	—	—	5,950	12-35	355	108	463	20	4-51	—	—	118	91
		1902	49,301	7,111	16-66	—	—	379	150	520	66	14-25	—	—	130	93
		1903	60,790	11,489	23-30	—	—	389	152	541	12	2-21	—	—	156	112
		1897	35,806,390	1,938,469	5-72	—	—	107,880	18,860	126,740	1,535	1-22	—	—	332	282
		1898	26,723,618	—	—	9,082,772	25-36	109,088	19,725	128,813	2,073	1-63	—	—	243	207
		1899	39,870,087	13,146,479	49-41	—	—	111,981	20,701	132,682	3,869	3-00	—	—	356	300
		1900	39,328,209	—	—	541,888	1-35	124,441	23,211	147,652	14,970	11-28	—	—	316	286
		1901	39,208,059	—	—	119,150	30	127,339	23,073	150,412	2,760	1-87	—	—	309	280
		1902	41,305,583	2,066,524	5-34	—	—	131,062	23,509	154,571	4,159	2-76	—	—	315	267
TOTAL FOR UNITED KINGDOM	Strike in South Wales	1903	42,153,287	847,704	2-05	—	—	135,317	23,844	159,161	4,590	2-88	—	—	311	264
		1897	202,119,196	6,767,245	3-46	—	—	547,203	124,328	681,531	—	—	11,153	1-61	369	296
		1898	202,042,243	—	—	76,953	0-07	556,364	137,297	693,661	12,130	1-78	—	—	363	291
		1899	220,085,368	18,043,125	8-93	—	—	571,806	143,399	715,205	21,544	3-15	—	—	384	307
		1900	225,170,163	5,084,795	2-31	—	—	613,541	153,360	766,901	51,696	7-22	—	—	366	293
		1901	219,037,240	—	—	6,132,923	2-72	647,822	158,913	806,735	39,834	5-19	—	—	338	271
		1902	227,084,871	8,047,631	3-67	—	—	682,901	161,890	824,791	18,056	2-23	—	—	342	275
		1903	230,323,391	3,238,520	1-41	—	—	676,746	165,320	842,066	17,275	2-09	—	—	340	273
		1897	35,806,390	1,938,469	5-72	—	—	107,880	18,860	126,740	1,535	1-22	—	—	332	282
		1898	26,723,618	—	—	9,082,772	25-36	109,088	19,725	128,813	2,073	1-63	—	—	243	207
		1899	39,870,087	13,146,479	49-41	—	—	111,981	20,701	132,682	3,869	3-00	—	—	356	300
		1900	39,328,209	—	—	541,888	1-35	124,441	23,211	147,652	14,970	11-28	—	—	316	286
		1901	39,208,059	—	—	119,150	30	127,339	23,073	150,412	2,760	1-87	—	—	309	280
		1902	41,305,583	2,066,524	5-34	—	—	131,062	23,509	154,571	4,159	2-76	—	—	315	267
		1903	42,153,287	847,704	2-05	—	—	135,317	23,844	159,161	4,590	2-88	—	—	311	264
		1897	202,119,196	6,767,245	3-46	—	—	547,203	124,328	681,531	—	—	11,153	1-61	369	296
		1898	202,042,243	—	—	76,953	0-07	556,364	137,297	693,661	12,130	1-78	—	—	363	291
		1899	220,085,368	18,043,125	8-93	—	—	571,806	143,399	715,205	21,544	3-15	—	—	384	307
		1900	225,170,163	5,084,795	2-31	—	—	613,541	153,360	766,901	51,696	7-22	—	—	366	293
		1901	219,037,240	—	—	6,132,923	2-72	647,822	158,913	806,735	39,834	5-19	—	—	338	271
		1902	227,084,871	8,047,631	3-67	—	—	682,901	161,890	824,791	18,056	2-23	—	—	342	275
		1903	230,323,391	3,238,520	1-41	—	—	676,746	165,320	842,066	17,275	2-09	—	—	340	273

Appendix.
11th Day.
No. 1—
continued.

THE MONMOUTHSHIRE AND SOUTH WALES COAL OWNERS' ASSOCIATION,
W. GASCOYNE DALZIEL, Secretary.

TWELFTH DAY.

Appendix.
12th Day.
No. 1.

1.—TABLE shewing the RATES of PAY, HOURS, and other CONDITIONS of SERVICE of MEN of the SEVERAL GRADES SPECIFIED on the UNDERMENTIONED RAILWAYS (as in force in AUGUST, 1900, prior to the Strike).

(Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1098.)

GOODS AND MINERAL GUARDS.

COMPANY.	Weekly Wages.		Hours per week.	Guaranteed minimum hours per week (if any).	Overtime Rate.	Sunday Overtime Rate.	If trains work with 1 or 2 men.
	Minimum.	Maximum.					
Taff Vale - - - - -	s. d. 26 0	s. d. 31 0	60	60	1½	1½	1 & 2
	An additional 1s. per week when working single-handed.						
Brecon and Merthyr - - -	Below standard of T.V.R.			—	—	—	—
Barry - - - - -	25 0	31 0	60	60	1½	1½	1 & 2
	An additional 1s. per week when working single-handed.						
Cambrian - - - - -	20 0	28 0	72	—	10 hours.	1½	1
Rhymney - - - - -	25 0	31 0	60	60	1½	1½	1 & 2
	An additional 1s. per week when working single-handed.						
Rhondda and Swansea Bay - -	26 0	30 0	*60	60	Ordinary	1½	2
Neath and Brecon - - - -	24 0	27 0	—	—	—	1½	2
Port Talbot - - - - -	24 0	30 0	60	—	Ordinary	1½	1
Great Central - - - - -	25 0	30 0	60	60	„	1½	1
Great Eastern - - - - -	25 0	28 0	60	—	„	Ordinary	1
Great Northern - - - - -	23 0	30 0	60	60	„	„	—
Great Western - - - - -	26 0	30 0	60	—	„	„	—
„ „ Merit Class - - -	31 0	32 0	—	—	—	—	1
London, Brighton, and South Coast	28 0	30 0	65	—	Ordinary	8 hours	—
London and North Western (local)	23 0	27 0	60	60	„	1½	1
„ „ „ (through)	27 0	30 0	—	—	—	—	—
London and South Western - -	27 6	31 0	66	—	Ordinary	Ordinary	—
Midland - - - - -	24 0	30 0	60	60	„	8 hours	1†
North Eastern - - - - -	24 0	29 0	60	—	1½	1½	1†
„ „ Goods - - - - -	—	30 0	—	—	—	—	—
South Eastern and Chatham and Dover Joint - - - - -	27 0	31 0	60	60	Ordinary	1½	—

* Settled once a month.
† Pick up trains only have two men.

BRAKESMEN.

Appendix.

12th Day.
No. 1—
continued.

COMPANY.	Weekly Wages.		Hours per week.	Guaranteed minimum hours per week (if any).	Overtime Rate.	Sunday Overtime Rate.	If trains work with 1 or 2 men.
	Minimum.	Maximum.					
Taff Vale - - - - -	s. d. 21 0	s. d. 24 0	60	60	1½	1½	2
Brecon and Merthyr - - -	Below standard. of T.V.R.			—	—	—	—
Barry - - - - -	21 0	24 0	60	60	1½	1½	2
Cambrian - - - - -	None employed.						
Rhymney - - - - -	20 0	24 0	60	60	1½	1½	2
Rhondda and Swansea Bay - -	20 0	23 0	60	60	Ordinary	1½	2
Neath and Brecon - - -	20 0	24 0	—	—	—	1½	2
Port Talbot - - - - -	20 0	23 0	—	—	—	—	—
Great Central - - - - -	None employed.						
Great Eastern - - - - -	21 0	24 0	60	—	Ordinary	Ordinary	—
Great Northern - - - - -	21 0	23 0	50	60	"	"	—
Great Western - - - - -	22 0	24 0	60	—	"	"	1*
London, Brighton, and South Coast	24 0	25 0	65	—	"	8 hours	—
London and North-Western - -	No similar grade (see Guards).						
London and South-Western - -	21 0	26 0	66	—	—	—	—
Midland - - - - -	No such grade.						1*
North-Eastern - - - - -	20 0	24 0	60	—	1½	1½	1*
South-Eastern and Chatham and Dover Joint - - - - -	23 0	25 0	60	60	Ordinary	1½	On a few pick-up trains only.

* Pick-up trains only have two men.

SIGNALMEN.

Appendix.
12th Day.
No. 1—
continued.

COMPANY.	Weekly Wages.		Yearly Bonus.		Hours per day.	Guaranteed minimum hours per week (if any).	Overtime Rate	Sunday Overtime.	REMARKS.
	Min.	Max.	Min.	Max.					
	s.	s.	£	£					
Taff Vale - - - -	20	29	2	4	10	—	1½	1½	Ordinary Sunday work Special Sunday work
								1½ Minimum: half-day.	
Brecon and Merthyr - -	Below standard of T. V. R.					—	—	—	—
Barry - - - -	20	31	—	—	10	—	1½	1½	—
Cambrian - - - -	17	23	—	—	12	—	10 hours	—	—
Rhymney - - - -	18	30	—	—	10	—	1½	1½	—
Rhondda and Swansea Bay - - - -	20	25	—	—	1—8 others 10	—	Ordinary	1½	—
Neath and Brecon - -	18	23	—	—	12	—	„	1½	—
Port Talbot - - - -	20	24	—	—	2—10 others 12	—	„	1½	—
Great Central - - -	19	30	2	5	8—10 others 12	—	„	Special	—
Great Eastern - - - *	17	28	—	—	8—10 others 12	—	„	Ordinary Minimum ½	—
Great Northern - - *	18	35	2	10	5 8—10 others 12	—	„	Ordinary	—
Great Western - - -	18	34	2	5	8—10 others 12	—	„	„	—
	South Wales and Monmouths hire.								
London, Brighton and South Coast - - - -	20	35	—	—	8—10 others 12	—	„	12 hours	—
London and North Western *	20	35	2	6	8—10 others 12	—	„	Ordinary	—
London and South Western *	—	36/6	—	5	8—10 In large boxes only.	—	„	„	—
Midland - - - -	20	30	1	5	8—10 others 12	Yes.	„	„	—
North Eastern - - -	22	26	—	—	8—10 others 12	—	1½ Each day to itself.	Special Not less than ½ day for 2 separate calls	—
	Special up to 35/-								
South Eastern and Chatham and Dover Joint - *	20	40	2½	7½	8—10 11 & 12	—	Ordinary	12 hours	—

* The maximum rate on these railways is paid in London.

NOTE.—Since August, 1900, sick-relief signalmen have been appointed and paid the wages of highest rated box in the district to which they were appointed, with lodging or travelling allowance. The wages of nineteen boxes advanced: two by 2s. per week and seventeen by 1s. per week since August, 1900.

DRIVERS.

Appendix.
12th Day.
No. 1—
continued.

Company.	Weekly Wages.		Hours per Week (if any).	Guaranteed hours per week (if any).	Overtime Rate.	Sunday Overtime Rate.	Premium per annum.	REMARKS.
	Min.	Max.						
Taff Vale - - - -	s. 30	s. 45	60	60	1½	1½	£ s. d. 2 12 6 to 10 10 0	Premium to passenger drivers : Maximum £5 5s. per half-year.
Brecon and Merthyr - -	—	—	—	—	—	—	—	—
Barry - - - -	30	48	60	60	1½	1½	—	—
Cambrian - - - -	30	42	60	Each day to itself	Ordinary	—	—	Special rates according to circumstances.
Rhymney - - - -	30	45	60	60	1½	1½	—	—
Rhondda and Swansea Bay-	30	42	Goods and Passr. 60 Pilots 72	—	—	1½	—	72 hours include meal times.
Neath and Brecon - -	27	36	60	—	Ordinary	1½	—	—
Port Talbot - - - -	27	42	60	—	—	1½	—	—
Great Central - - - -	33	45	66	—	8 hours	8 hours	—	—
Shunting Engines - -	—	—	72	—	8 hours	8 hours	—	—
Great Eastern - - - -	33	42	60	—	1½	1½	—	—
Great Northern - - - -	33	45	60	—	1½	1½	—	72 hours include meal times.
Shunting and Piloting -	—	—	72	—	1½	1½	—	—
Great Western - - - -	36	48	60	—	Ordinary	1½	10 0 0	Premium to 1st and 2nd class drivers 42s. to 48s. per week.
London, Brighton and South Coast	33	48	60	60	1½	1½	—	Coal and oil premiums.
London and North Western-	33	48	60	—	1½	1½	—	—
London and South Western	33	48	60	—	1½	1½	—	—
Midland - - - -	33	45	60	No Guarantee	1½	1½	—	—
North Eastern - - - -	33	48	60	—	1½	1½	—	—
South Eastern and Chatham and Dover	33	48	60	60	1½	1½	—	—

Appendix.
12th Day.
No. 1—
continued.

FIREMEN.

Company.	Weekly Wages.		Hours per week.	Guaranteed minimum hours per week (if any).	Overtime Rate.	Sunday Overtime Rate.	Remarks.
	Min.	Max.					
*Taff Vale - - -	s. d. 21 0	s. d. 28 6	60	60	1½	1½	—
Brecon and Merthyr -	—	—	—	—	—	—	—
Barry - - - -	20 0	28 6	60	60	1½	1½	—
Cambrian - - -	18 0	24 0	60	Each day to itself.	Ordinary.	—	Special rates according to circumstances.
Rhymney - - -	21 0	27 0	60	60	1½	1½	—
Rhondda and Swansea Bay	18 0	27 0	60 72	Goods and Pilots.	Passenger. —	1½ 1½	72 hours include meal times.
Neath and Brecon - -	18 0	24 0	60	—	Ordinary.	1½	—
Port Talbot - - -	18 0	25 6	60	—	—	1½	—
Great Central - - -	21 0	27 0	66	—	8 hours.	8 hours.	—
Shunting Engines -	—	—	72	—	8 hours.	8 hours.	—
Great Eastern - - -	19 0	30 0	60	—	1½	1½	—
Great Northern - - -	22 6	30 0	60	—	1½	1½	72 hours include meal times.
Shunting and Piloting	—	—	72	—	1½	1½	
Great Western - - -	18 0	28 6	60	—	—	1½	—
London, Brighton and South Coast	21 0	27 0	60	60	1½	1½	—
London and North Western	21 0	30 0	60	—	1½	1½	—
London and South Western	21 0	30 0	60	—	1½	1½	—
Midland - - - -	21 0	30 0	60	No Guarantee.	1½	1½	—
North Eastern - - -	21 0	30 0	60	—	1½	1½	—
South Eastern & Chatham & Dover Joint	21 0	27 0	60	60	1½	1½	—

* Since August, 1900, the minimum wages of Firemen have been raised from 21s. to 24s. per week.

2.—STATEMENT *re* PENSION ALLOWANCES FOR WAGES PAID STAFF ON THE TAFF VALE RAILWAY.

Appendix.
12th Day.
No. 2.

(*Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1099.*)

Cardiff, 23rd December, 1892.

The Directors having had recently before them several applications for retiring allowances from members of the staff, have taken the whole question of such allowances into their consideration, and I am directed to state that, there being no Clearing House or other fund for the provision of retiring allowances to persons in receipt of weekly wages, the Directors have formulated a scheme under which such persons on attaining the age of sixty may receive a retiring allowance *without any cost to themselves*.

The scale of allowances, and the conditions under which they may be granted, are as follows:—

1. Any man in the permanent employ of the Company at weekly wages in any department, whether a uniform servant or not, who has reached sixty years of age with not less than twenty-five years' service, and who is not eligible for or belonging to the Clearing System Superannuation Fund Association may be recommended for a retiring allowance by the Head of the Department in which he is employed; and in the report embodying such recommendation, which must be accompanied by a medical certificate as to his capacity for work, the position of the man so recommended, his length of service, character, and circumstances, must be fully stated for the information of the Directors.

2. Any man so reported and found eligible for retirement may be granted an allowance according to the following scale, and subject to the undermentioned conditions, viz.:—

If 60 years of age, his average weekly wages during the last ten years will be divided into - 70 parts.
If 61 years of age they will be divided into - 69 "
If 62 " " " " - 68 "
If 63 " " " " - 67 "
If 64 " " " " - 66 "
If 65 " " " " - 65 "

Each of the above-mentioned parts will be multiplied by the number of years' service of the man to be retired, and the amount thus ascertained will be divided into two equal shares, one of which will represent the weekly allowance to be granted by the Company, and the other will be considered as the amount which the man might fairly be expected to be able to provide through any Friendly Society or Benefit Club to which he may belong, or by any other means at his command.

3. The minimum and maximum allowances to be so granted by the Company will be as follow, viz.:—

At age:	s.	d.	s.	d.
60, not less than 40 nor more than 140 per week.				
61 " " 4 " "	4	4	15	2
62 " " 4 " "	8	"	16	4
63 " " 5 " "	0	"	17	6
64 " " 5 " "	6	"	18	8
65 " " 6 " "	0	"	20	0

4. As regards any provision by the Company's servants towards their retirement, each man is to be at liberty to exercise his own discretion in this matter, on the understanding that should he fail to make any such provision the Company's allowance will not be refused on that account, nor can it be increased to make up the deficiency to him.

5. As the allowances to be granted by the Company will be provided out of their own funds, without any contributions from the men, it must be clearly understood that the Directors must reserve to themselves the right of refusing, withdrawing, reducing, or increasing an allowance in any case, as also the power of altering or terminating these arrangements at any time as and when they may deem necessary.

A. BEASLEY, *General Manager*.

Appendix. 3.—STATEMENT SHOWING the NUMBER of PENSIONERS and TOTAL AMOUNT of PENSIONS
12th Day. at 15th JUNE, 1904; on the TAFF VALE RAILWAY.
No. 3.

(Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1100).

	Per annum.		Per annum.
	£ s. d.		£ s. d.
1 - - - - -	125 0 0	Forward - - - - -	1,658 9 8
1 - - - - -	100 0 0	1 @ 13s. 1d. - - - - -	34 0 4
1 - - - - -	70 0 0	2 @ 13s. - - - - -	67 12 0
1 @ 30s. - - - - -	78 0 0	1 @ 12s. 4d. - - - - -	32 1 4
1 @ 22s. 6d. - - - - -	58 10 0	1 @ 12s. 1d. - - - - -	31 8 4
9 @ 20s. - - - - -	468 0 0	1 @ 12s. - - - - -	31 4 0
2 @ 18s. - - - - -	93 12 0	1 @ 11s. - - - - -	28 12 0
1 @ 17s. 6d. - - - - -	45 10 0	1 @ 10s. 6d. - - - - -	27 6 0
1 @ 17s. - - - - -	44 4 0	14 @ 10s. - - - - -	364 0 0
1 @ 16s. 6d. - - - - -	42 18 0	2 @ 9s. - - - - -	46 16 0
3 @ 16s. - - - - -	124 16 0	1 @ 8s. 9d. - - - - -	22 15 0
4 @ 15s. - - - - -	156 0 0	1 @ 8s. 7d. - - - - -	22 6 4
1 @ 14s. 6d. - - - - -	37 14 0	3 @ 8s. 6d. - - - - -	66 6 0
2 @ 14s. - - - - -	72 16 0	9 @ 8s. - - - - -	187 4 0
2 @ 13s. 8d. - - - - -	71 1 4	3 @ 7s. 6d. - - - - -	58 10 0
1 @ 13s. 6d. - - - - -	35 2 0	2 @ 7s. 1d. - - - - -	36 16 8
1 @ 13s. 7d. - - - - -	35 6 4	43 @ 7s. - - - - -	782 12 0
Forward - - - - -	£1,658 9 8	119 Pensioners.	£3,497 19 8

Accountant's Office, Taff Vale Railway,
June 20th, 1904.

4.—STATEMENT SHOWING the AMOUNT PAID to the RAILWAY CLEARING SYSTEM SUPER-ANNUATION FUND by the TAFF VALE RAILWAY COMPANY from JANUARY 1st, 1893, to DECEMBER 31st, 1903.

Appendix.
12th Day.
Nos. 4 and 5.

(Handed in by Mr. A. Beasley, on the Twelfth Day. See Question 1101.)

	£	s.	d.
1893	944	1	9
1894	1,048	14	9
1895	1,030	7	7
1896	1,094	16	5
1897	1,131	15	0
1898	1,162	9	4
1899	1,170	0	9
1900	1,173	14	1
1901	1,186	9	16
1902	1,246	17	10
1903	1,259	15	7
1904 (Six months).	£12,449	2	11
	531	6	4
	£12,980	9	3

Accountant's Office, Taff Vale Railway, June 20th, 1904.

5.—STATEMENT SHOWING the AMOUNT of PENSIONS PAID by the TAFF VALE RAILWAY COMPANY from JANUARY 1st, 1893, to DECEMBER 31st, 1903.

(Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1101.)

YEAR.	AMOUNT.
	£ s. d.
1893	971 11 6
1894	1,453 5 3
1895	1,403 8 10
1896	1,998 7 11
1897	2,263 5 9
1898	2,690 14 11
1899	2,752 10 7
1900	2,912 6 3
1901	3,214 0 1
1902	3,307 12 10
1903	3,379 3 2
1904 (Six months)	£26,346 7 1
	1,750 0 0
	£28,096 7 1

Accountant's Office, Taff Vale Railway, June 20th, 1904.

Appendix.
12th Day.
No. 6.

6.—STATEMENT showing the AMOUNT PAID by the TAFF VALE RAILWAY COMPANY since 1893 in the form of GRATUITIES to OFFICERS and STAFF on LEAVING the SERVICE, and to WIDOWS and RELATIVES of DECEASED MEMBERS of the STAFF, including also the AMOUNTS GRANTED to MEN away ILL and for ARTIFICIAL LIMBS, etc.

(Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1101.)

Year.											£	s.	d.
1893	.	.	.	.	.	.	.	.	.	.	371	1	6
1894	.	.	.	.	.	.	.	.	.	.	705	0	0
1895	.	.	.	.	.	.	.	.	.	.	160	0	0
1896	.	.	.	.	.	.	.	.	.	.	1,097	11	0
1897	.	.	.	.	.	.	.	.	.	.	248	7	0
1898	.	.	.	.	.	.	.	.	.	.	474	10	0
1899	.	.	.	.	.	.	.	.	.	.	197	10	0
1900	.	.	.	.	.	.	.	.	.	.	1,377	12	0
1901	.	.	.	.	.	.	.	.	.	.	140	0	0
1902	.	.	.	.	.	.	.	.	.	.	170	0	0
1903	.	.	.	.	.	.	.	.	.	.	647	10	0
1904	.	.	.	.	.	.	.	.	.	.	1,260	9	10
											£3,849	11	4

7.—EXTRACT from the "RAILWAY REVIEW," SEPTEMBER 1st, 1899. AN OPEN LETTER to
TAFF VALE RAILWAYMEN.

Appendix.

12th Day.
No. 7.*(Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1105).*

FELLOW WORKMEN:—It may appear strange that I should address you in this manner but I think if you will take into consideration the difficulty that is experienced to get you to attend a meeting you will see the wisdom of this course. Your disorganised state brought about by your indifference makes it difficult to approach you as a body, and these lines are penned in the hope that they will have the effect of setting you thinking seriously what can be done to improve your condition of service.

In 1890 you won the admiration of all trades unionists by the noble stand you made, and perhaps it would be well to remind you that that was a united stand of all grades. But I hope I shall not wound your vanity by asking you what has taken place since. Some of the men who acted on your behalf then have now been removed from the service and you have scarcely complained. They suffered through fighting your battle, but you felt very little for them. Efforts have been made to get you to act again but you don't seem interested in the movement. An observer might ask, are your conditions of service as well to-day as they were in 1891? Since then the guards and brakemen have been blessed with a journal that adds to their responsibility. The drivers and firemen have been forced into a coal-saving competition which does not make their lot any happier. The signalmen have (through the introduction of the absolute block and the increase in telephone and delay return work) had their work increased out of all proportion to the concessions they gained in 1890. The hours of labour have been so arranged that you are crying out bitterly against night work. Take the signalmen as an instance, whom people think enjoy a gentleman's position. They have to come to work at most inconvenient hours from 3 a.m. to 11 p.m., and their time has been so arranged that they can hardly consider themselves working by day at all. Since 1890 you have been promised a pension, and this might have something to do with the bringing about of the happy indifference you seem apparently to enjoy. Some of you complain of your grievances along the line, but you seem to forget that it is your duty to see that something should be done to have them removed. It may be said that you have been misled to a certain extent by the high coloured programmes that have been drafted regardless of the circumstances that you were placed in. You may have been taught to think more of

what you should include in a programme than what you were as a body able to demand and get. But the first programme laid before you had been reduced so as to ask for that which you could have gone in and fought for.

Your treatment of all efforts seems to indicate that you enjoy all the grievances you complain of and that you don't wish to be put to the inconvenience of removing them. Excessive hours don't seem to trouble you. An eight hour cabin doesn't seem to be worth going in for, and if what's to hand is correct you seem to trouble more about a few shillings advance than a reduction of hours. When reliefmen are absent you work twelve hours contentedly, and at the same time give away your case for an eight hour day, notwithstanding that you have to over-work yourself to do this.

Your agreement has been repeatedly attacked, and many of you act as if it was hardly worth defending. To an impartial mind you seem totally indifferent how you are treated, and that you enjoy that happy-go-easy method of letting things drift. But ere long you will wake up and find that this policy has been carried on too long. The workmen's indifference is the master's opportunity. Whilst trade is good and circumstances favourable to move, you allow yourselves to drift to a position of weakness. Gradism seems to have come into favour with you. Loco. men have their meetings, guards and brakemen meet another date, platelayers decide on a grade movement, and signalmen, I am told, will soon fall victims to this grade epidemic. And this all takes place when you fail to respond to the call for united action. What hopes have you to succeed whilst ignoring one another in this way? If you fail unitedly (which has not taken place yet) you will certainly fail sectionally.

This has been proved over and over again, but you seem to ignore the lessons of the past. I am writing thus, hoping that it will be the means of stirring you to action, and to set aside the apathy and indifference which exists amongst you. A meeting will be called again of the men of the three lines. Let this meeting demonstrate that the old spirit of 1890 has returned, and that you are prepared to act unitedly wisely, and effectively.

Yours, etc.,

UNIONIST.

Appendix.

12th Day
No. 8.

8.—TAFF VALE RAILWAY.—RAILWAYMEN'S MOVEMENT, 1899.

PROGRAMME FORMULATED by Mr. RICHARD BELL, M.P., GENERAL SECRETARY, AMALGAMATED
SOCIETY of RAILWAY SERVANTS.*(Handed in by Mr. A. Beasley on the Twelfth Day. See Question 1127.)*

That the "Guaranteed Week" Clause shall be altered so as to read as follows:—

The railway companies to pay for at least a week's work of sixty hours (all time worked between 6 p.m. and 6 a.m. to be counted at the rate of eight hours per day), subject to the condition that the men will not be paid for time lost through holidays taken by the Federated Colliers of South Wales and Monmouthshire. When these holidays are taken each man to be guaranteed five days' pay providing he is not booked to work on the day the holiday takes place. Should a man work or be booked to work on the day the holiday takes place, a full week's pay to be guaranteed. Should a general strike or lock-out occur at undertakings connected with the railways concerned, the guaranteed week shall be suspended for the period the strike or lock-out takes place.

That all time worked between 6 p.m. and 6 a.m. shall be paid for at the rate of eight hours per day.

Other conditions of services not mentioned herein shall remain as heretofore.

DRIVERS.

Promotion.—To be carried out as per conditions of service.

Everyone doing main line driving to be paid second class pay.

Everyone doing driver's duty, whether consecutively or otherwise, time to be counted for advance of wages, and after twelvemonths to be entitled to 5s. 10d. per day as per scale.

Time to be counted from signing on and off at the steam sheds the men belong to.

The practice of booking men, "come when sent for," to be abolished as far as possible, but when absolutely necessary half time to be paid while waiting.

PILOT MEN.

More time to be allowed for locomotive purposes for signing on and off duty.

CLEANING FIRE.

More time to be allowed after leaving traffic duty.

GUARDS.

First Year	-	-	-	-	-	26s. per week
Second Year	-	-	-	-	-	27s. "
Third Year	-	-	-	-	-	28s. "
Fourth Year	-	-	-	-	-	30s. "
Fifth Year	-	-	-	-	-	32s. "
Sixth Year	-	-	-	-	-	33s. "

GUARDS AND BRAKESMEN.

Time to be counted from signing on and off duty at the depôt the men belong to.

The practice of booking men, "come when sent for," to be abolished as far as possible, but when absolutely necessary half-time to be paid while waiting.

Guards doing foremen's duty to be paid at their own rate of wages and hours.

BRAKESMEN.

First Year	-	-	-	-	-	20s. per week
Second Year	-	-	-	-	-	21s. "
Third Year	-	-	-	-	-	22s. "
Fourth Year	-	-	-	-	-	23s. "
Fifth Year	-	-	-	-	-	25s. "

To have cloth coat and vest similar to guard's. To be paid boot money.

SIGNALMEN.

That the following cabins be rated eight hours per day:—

Cogan Junction.	Treforest Barry Junction.
Grangetown.	P. C. and N. Junction.
East Dock Junction.	Pontypridd Junction.
East Branch Junction.	Abercynon South.
Cardiff Station.	Gyfeillon Lower.
Crockherbtown Lower.	Hafod Barry Junction.
Maindy Bridge.	Eirw Branch Junction.
Roath Line Junction.	Rhondda Fach Junction.
Penarth Junction.	Treherbert North.
Walnut Tree Junction.	Maerdy Junction.
Llantrissant Junction.	Abercynon North.

Stormstown.

All signalmen to be advanced 3s. per week.

That a day-and-a-half be paid for ordinary Sunday duty as worked at present.

That the Company be asked to appoint more sick relief men, in order to avoid other men working more than the ordinary hours of duty.

ALL GRADES.

The condition of granting leave of absence shall not be subject to stating the purpose it is required for.

THIRTEENTH DAY.

1.—THE TAFF VALE RAILWAY COMPANY *v.* THE AMALGAMATED SOCIETY OF RAILWAY SERVANTS.
 ABSTRACTS OF FACTS OF ASSAULT, ACTS OF INTIMIDATION, ETC., COMMITTED BY PICKETS
 (See STATEMENT OF CLAIM, PARAGRAPH 9.).

Appendix.
 13th Day.
 No. 1.

(Handed in by Mr. A. Beasley on the Thirteenth Day, See Question 1149.)

Para. in Statement of Claim.	Name.	Remarks.
9 (12)	Samuel Dart, engine driver.	Men called at house first day. Ran trains on 20th August. Met by picket at night and threatened. Escorted home by police and crowd. Did not work again.
9 (13)	John Reynolds, engine driver.	Called for work on 20th August. Proceeded towards sheds. Surrounded by picket. Went with picket towards Committee room but afterwards turned round and went to work. Escorted home by police and crowd. Went to work on 21st. Would not act as fireman because of intimidation.
9 (14)	J. G. Wiggins, engine driver.	Called for work 20th August. Went towards Penarth sheds. Surrounded by picket at entrance to sheds. Afraid to force through crowd. Went home and did not work during strike.
9 (15)	William Cook, engine driver.	Men called at house on 19th August to persuade Cook not to work. Called for duty on 20th and started for Ferndale sheds. Met by men who tried to push him back—policeman appeared and took him to sheds. On 21st August went to work—eight men got over fence and rushed for engine, held Cook and pushed his head back and wanted him to drop the fire out. Cook caught hold of string of whistle and pulled it and policeman ran up. House picketed four days. On 23rd Cook on engine, stones and rotten eggs thrown at him—fence around station broken and strikers attempted to reach engine—kept back by policemen. Had to send wife to Cardiff and live himself in barracks. After strike men would not speak to him.
9 (16)	John Francis, engine driver.	Called for duty on 20th August. Taff men called at house to stop him working and told him he had better not leave house as men waiting. Started for work, large crowd in street; wife seized with hysterics. Francis returned; wife ill for several days owing to threats of men.
9 (17) (18)	Thomas Price, locomotive foreman. George Brown, engine driver.	Price fired for Brown, Merthyr to Penarth. Strikers on Great Western platform threatened to pull them off engine. Returned with police protection.
9 (19)	A. G. Skilling, engine driver.	Penarth porters refused to couple on. Next journey strikers ran round engine Penarth Dock; cleared by police; brake disconnected. Called for duty on 20th August. Stopped by picket who eventually allowed him to go on—men afterwards rushed into room at sheds, collared Skilling and pulled him out and taken by strikers to lodgings. Coat torn and man shaken. Skilling afterwards went to Cardiff and reported—afterwards threatened by strikers. Did not work during strike.
9 (20)	George Brown, engine driver.	See 9 (17) (18)—Strikers called at house. House watched and beset. After strike assaulted and beat in Merthyr.
9 (21) (22)	H. F. Golding, draughtsman.	Taking photographs at Cathays. Surrounded and threatened by men. Pickets made expressive gestures across their necks to drivers. Whilst rising on Penarth bus shouted at by men.
9 (24)	Philip Geen, engine driver.	Called on 21st August. Met by pickets, surrounded, and told that he should not work. Sooner than force through pickets went home and in bed for two days.
9 (25)	George Lane, engine driver.	Called for duty on 20th August. Met by pickets in Cathays Terrace. told him they should stop him working. Got through this picket. Met by another picket on Woodville Bridge; would not let him go on—went home.
9 (26)	Thomas Parry, locomotive foreman.	On 20th August firing on Rhondda Branch. At Pontypridd pickets came on footplate and tried to get driver off. On 22nd whilst taking engine to Cathays sheds stone thrown through glass window of engine causing splinter to hit Parry in the face. On 24th went on Ferndale Branch; hooting and stone throwing at various places. Station gates rushed twice. Police had to ride in trains and force trebled.
9 (27)	William Jenkins, engine driver.	Went on duty 20th August. Acted as fireman. While slowing up at Coke Ovens to pick up pilot, brake tampered with. On 21st met by crowd of 200 to 300. Told Jenkins he should not pass them and abused and threatened him—Jenkins went home.
9 (28)	James Taylor, engine driver.	Went to work at 5 a.m. 20th August. Met by pickets on Woodville Bridge and persuaded to return home.

Appendix.
13th Day.
No. 1—
continued.

Para. in Statement of Claim.	Name.	Remarks.
9 (29)	Andrew Davison, engine driver.	Called for duty 20th August. Picket outside house told him none of the men were going on duty and he therefore did not go.
9 (30)	Arthur Peach, fireman.	Called for duty 20th August. Saw picket in front and being afraid to pass them went home.
9 (31) (32) (33) (34)	William Edwards, engine driver.	Started for work on 20th August. Picket outside door asked him not to go. Went by another route. On 21st went towards Penarth sheds; surrounded at coal yard by pickets and persuasion used. Pickets all round him and seeing that he would have to force his way through went home; sent to foreman for protection; escorted to sheds by policeman; shouted at. Strikers got on to low level and cleared off by policemen. Policemen took him home. Men called at house continuously during strike. Pickets every day on low level and at other places shouting and making gestures. So upset by strike applied for pension. Went to work on 20th August. Shouted at by pickets continuously. On 25th August strikers called at house and tried to persuade him to stop work but he refused.
9 (36)	Leonard Parramore, hydraulic engine driver.	On 20th August and during week met by pickets but went to work. On 25th refused to work crane because of what strikers told him.
9 (37)	Joseph Petherick, dredgerman.	Second week deputation sent by strike committee to persuade him to stop work. Two days after another man called and threatened to strike housekeeper.
9 (38)	John Williams, hydraulic engine driver.	Threats of strikers prevented him working points. Crowd outside house shouting and jeering. On 23rd August at Albion Branch shouted and jeered at and pelted with stones.
9 (39)	Thomas Thomas, signal fitter.	Worked cabins under police protection. Threatened by pickets.
	William Powell, chief signal inspector.	Afraid to work points at Pontypridd Station because of strikers. Crowd booing and yelling. Gang refused to work.
	John Davies, platelayer.	With Thomas Thomas on Albion Branch. Pelted with stones and jeered at.
	E. D. Samuel, signal fitter.	Some of imported men went into town to buy clothing. On returning were roughly handled by strikers and one of the men being afraid of strikers jumped an iron railing. Strikers injured one of regular men who was laid up for some time.
9 (40)	Edwin Blackmore.	Working points at Treherbert. Gang refused to work. Strikers shouted out whenever he moved the points—afraid of crowd.
9 (41)	George Stokes, foreman platelayer.	Working points at Treherbert with Stokes. Shouted and jeered at by crowd.
	John Price, foreman platelayer.	Living at St. Mellons. Started off on bicycle on 20th August about 5.20. Met at St. Mellons by pickets who asked him to stop work and that he would never be allowed to get through Cardiff. Would not let Adams go home; took him to Colbourne. Afterwards went to work and stayed in town overnight. On 21st again stopped by same men and held by them until cab was fetched when he was taken to Colbourne; practically prisoner all day. Stayed in Cardiff that night and finding it no use attempting work went home on 22nd.
9 (42)	Thomas Adams, signalman.	Strikers continually hanging round house but was not prevented from working. Stopped by pickets and asked whether he preferred being a blackleg or whether he would come out.
9 (43)	Thomas Evans, signalman.	Worked on 20th August. On 21st strikers on Merthyr platform tried to get him to stop. On other days men rushed at engine using bad language and shaking their fists. On several days on going home he was threatened and had to be escorted by policeman. House watched and beset. Wife and daughter afraid to go out.
9 (44) (45)	Moses Rogers, traffic inspector.	Succeeded Ewington. Went to work on 20th August. Met by Ewington who tried to get him out. About middle day crowd of people came opposite box on other side of railway and got Hopkins to promise not to work after 20th. On going home met by crowd who took him to Committee rooms and made him promise not to work.
9 (46)	Edward Hopkins, signalman.	Started for work on 20th August. Met by four pickets—asked Burton not to go to work and told him that no one was at work and that there were some more pickets waiting for him by Rhymney Railway gate. Burton therefore afraid and went home—did not work during strike; and under doctor for a fortnight.
9 (47)	Levi Burton, signalman.	Started for work on 20th August on bicycle. Stopped by six pickets in Crwys Road who caught hold of bicycle; told that no one was working and it would be better for him to stop away. Being afraid of pickets did not work during strike. Saw imported man assaulted at Colbourne Hotel.
9 (48)	Ernest Selwood, pointsman.	Told by station master at Radyr to wait in house till sent for as pickets waiting for him. Sent for on 23rd and started for work; stopped by pickets and told that if he went on he would have to take the consequences. He thereupon went home and told station master he was afraid to work.
9 (49)	George Potter, signalman.	Went to work on 20th August. Pickets tried to persuade him to refrain. Pickets at back of signal box throwing stones all day. Left work 3 p.m. and told station master should not work next day as afraid of what might happen. Pickets called to see him. Did not work again during strike.
9 (50)	Phillip Gibbon, signalman.	

Para. in Statement of Claim.	Name.	Remarks.
9 (51)	J. Bailey, signalman.	Went to work at Aberdare on 20th August. Strikers shouting and jeering. Policeman in box and accompanied Bailey home; met large bodies of pickets. After getting home stones thrown at door. Started for work on 21st; seeing large picket looking out for him he was afraid to go to box and did not work again during strike.
9 (52)	Herbert Williams, station porter.	On Tuesday of second week of strike told by station master to look after signal cabin at Maerdy to receive messages. Twelve or thirteen pickets came to bridge close to box—told Williams they should stay there until he came out and they were going to have him out. Williams went on to road and pickets caught hold of him. Williams said he would see station master and pickets went with him. Station master told him to go back to signal box; Williams would not do this because of pickets and afraid of force. Did his ordinary work during strike.
9 (53)	Charles Lloyd, mineral guard.	Started for work at Cathays on 20th August. Pickets outside house got in front of him but he got through them. Acted as passenger guard. When coming from Treherbert and opposite Coke Ovens train slowed to pick up pilot; brake pipe taken off. Crowd of pickets round van and round engine; Lloyd slipped into first class compartment and remained there until train left. On going home pickets got round him yelling; two policemen took him home. Crowd remained outside house. On 21st was going to work but found picket outside, and being afraid did not go. Started for sheds on 24th but could not get through crowd. Did not work again during strike.
9 (54)	Rees Morgan, signalman.	Men called at house on 19th and asked not to work; told that if met in the road it would be very unpleasant for him and gave him to understand that he would be stopped by force if necessary. Afraid of personal violence and promised not to work. Picket on road to see that he did not work.
9 (55)	William East, bank-rider.	Refused to do any beside his own work as afraid of men.
9 (56)	Thomas Williams, signalman.	Men called at house on 19th August and asked him not to go to work. Went to work at Llantrisant Junction on 20th August. On 22nd met by three men and threatened. Pickets on road all day shouting. Man called at house on 22nd to ask him to stop. Shouted at all the time in box. Afraid of strikers and did not work after 24th.
9 (57)	Thomas Thomas, signalman.	Went to work at Taffs Well on 20th August. Pickets in road shouting. Same on 21st. Men called at house on 21st and said that they had been sent by branch to get him to stop work. On 22nd went to work and being afraid of strikers told station master would not work again during strike.
9 (58)	S. Phillips, signalman.	This man did not attempt to work and went on picket duty.
9 (59)	J. L. Jones, signalman.	Started for work at docks on 20th August. Met by picket and taken by them to Colbourne; would not let him go and tell Mr. Harland that the strikers would not let him work; kept him at Colbourne for two hours and gave him to understand that he had better not try and get out. Did not work during strike.
9 (60)	J. Batten, lampman.	Did his own work all through strike.
9 (61)	William Hutchings, inspector.	On 20th August worked signals at Rhondda Fach. Pickets shouting all day and on 21st or 22nd men came to boundary wall and asked him to stop work. On 25th stone thrown at him as he was going home.
9 (62)	E. J. Capron, inspector.	Worked on trains during strike. On 28th whilst at Abercynon men threatened to put him in canal. Stones thrown and men shouting.
9 (63)	J. Chamberlain, signalman.	Went to work at docks on 20th August. Pickets told him that they would break his neck if they got hold of him. Men got behind signal box and tried to get him to stop work. On going home followed by strikers and had to go through stable in the next street to where he lived and get to the back of his house over the walls. On 21st or 22nd stayed at Cardiff Station all night, afraid of strikers.
9 (64)	William Ridd, Signalman.	Went to work on 20th August. Pickets tried to persuade him not to go. Escorted day and night by policemen. Pickets in road shouting. On 22nd or 23rd had to wait in Cardiff Station until dark because of pickets.
9 (65)	William Way, signalman.	Went to work on 20th August at Maindy Bridge—about twenty men threatened to break his neck if he went into box. Picket cleared by police and remained on bridge shouting all day. On going home picket tried to persuade him not to work but refused. On 21st men called at house and were offensive to wife.
9 (66)	— Davis, guard.	This man could not be traced.
9 (67)	William Williams (not Watkins), signalman.	Went to work on 20th August. Picket tried to stop him. On two occasions men called at house to see him but he was out. Offensive letters put under door, one signed "A lover of peace" and the other "Jack the Ripper," both informing him that his coffin was waiting if he did not cease work.
9 (68)	John Morgan, signalman.	Worked during strike at Treforest; men shouting all the time. Each evening policeman stayed in his house till 11 p.m. Strikers outside, very threatening. Called at house and saw wife.

Appendix.
13th Day.
No. 1—
continued,
and No. 2.

Para. in Statement of Claim.	Name.	Remarks.
9 (69)	Albert Beer, signalman.	Went to work on 20th August. Strikers asked him not to go and that he would be known as a blackleg. Opposite steam sheds crowd got round him and used offensive language and threatened to throw him in pond. Got into box. Strikers on road all time shouting and threatening. At night several hundred people there waiting for him to leave box. Had to walk up railway and sleep in station master's house. Same state of things on 21st. Pickets tried to speak to him but he refused. During remainder of strike had to sleep in dock office. Men tried to intercept him there but failed—police in strong force. Saw brake pipe disconnected at Penarth Dock. On 18th August told that he would be shot if he attempted to work.
9 (70)	T. W. Phelps, inspector.	On 20th August fireman got on line at Abercynon and tried to persuade him to stop work. Shouted at all the time.
9 (71)	Elijah Miles, guard.	On 20th August acting as pilot at Maerdy—men came on line and asked him to stop. On 24th strikers shouting and swearing at him and on 28th stones thrown by boys at Ystrad.

2.—THE TAFF VALE RAILWAY COMPANY v. THE AMALGAMATED SOCIETY OF RAILWAY SERVANTS
RICHARD BELL, JAMES HOLMES, PHILIP HEWLETT, GEORGE W. ALCOCK, AND JOHN PILCHER.

Heard before Mr. Justice Wills, and a Special Jury, on the 15th December, 1902.

SUMMING-UP OF MR. JUSTICE WILLS.

(Handed in by Mr. A. Beasley on the Thirteenth Day. See Question 1165.)

Mr. Justice Wills summed up as follows:—

SUMMING-UP.

Mr. Justice Wills: Gentlemen of the Jury, it is at last my turn, after some twelve or thirteen days of this investigation, to say a few words to you, and I do not think that what I shall say will be very long, because the result of the full discussion which has taken place, both on the law and the evidence, is to reduce it, to my mind, to a very simple case and one about which I very much doubt whether you will have any serious difficulty in coming to a conclusion, and a speedy conclusion.

It may be convenient, possibly, that I should depart from what is, perhaps, the usual course in summing up; that is to say, reserving my questions for the last. I think that it really would help you if I were to read to you at once the questions which I propose to leave to you, and if I were to say in a few sentences what, in my view, formed absolutely impartially and dispassionately, are the conclusions of fact. If I express a view of my own, it is really only to help you: it is not in any sense to ask you to agree with it; because I always say to a Jury, "You are the judges of fact and not the Judge; and in a dispute with regard to fact it is his duty to give you what help he can." If I present facts with which you do not agree and think it is not the fair view of the evidence, you will simply disregard them. It is of no authority as coming from me; it is only the considered expression of a person whose duty it is to form some sort of view about it, and who, as between the parties, is certainly absolutely free from either prepossession or bias of any sort or kind—at least, I hope so.

Gentlemen, the questions which I propose to put to you are these: I have them in writing, so that you need not trouble to take them down: (1) Did the three Defendants conspire together to molest and injure the Plaintiffs in their business by unlawful means? (2) Did the Defendants or either and which of them unlawfully persuade the men whose notices had not expired to break their contracts? (3) Did they, or either and which of them, authorise and assist in carrying out the strike by unlawful means?

I really think those three questions will cover everything which requires to be answered. They want some explanation, and that explanation I am going to give you as soon as I can, and I will also summarise in a few sentences what my own view of the net result of the facts is. It is, that whatever you may think about whether the Society is liable for certain acts of Holmes or not (which I do not for the present propose to discuss, and very likely I shall say very little about, because it does not seem to me to be really material in this case, I mean until we come to quite a late stage), it seems to me that up to a comparatively short period before the strike actually broke out there is no actionable wrong that has been brought home to anybody. Strikes are lawful. That is the result of an Act which was passed in 1875. Before that they were considered to be combinations in restraint of trade, and they were not lawful. Therefore, merely to promote a strike, if you do it by confining yourself to lawful means, is not actionable, and it is not actionable in one person, if it is lawful for every person who is concerned in it, so long as they confine themselves to legitimate means, and so long as the end in view is a strike proper, that is to say, a combined cessation from work. So long as that is all, there is no actionable wrong done. I will not express any opinion of my own, but some may think it is a great mistake for men to go about and stir up strife unnecessarily. Well, all depends upon that word "unnecessarily"; but the man who does that, and those who take the opposite view and think that strife of this kind should from time to time be stirred up, think that there are great public ends, and great ends for their own benefit, which are to be secured by that: and they have a right to their opinion, and as long as they confine themselves to legal means nothing is to be said. I attended with great patience and great care to the evidence as it went along, and I do not mean to say that there is not here and there a thing which might be laid hold of which possibly might be twisted into an illegality; but down to a late period before the strike (I will deal a little more particularly afterwards with regard to the individuals concerned) I do not see myself that there was anything that could be said

to be an actual illegality which was done; and if there was not there is no conspiracy, there is concerted action, but there is no conspiracy which would support an action.

I hope I have expressed myself dispassionately and calmly enough upon that part of the case. Now it is time that I should express myself freely and vigorously about the other part of the case, and impartiality, in my opinion, has nothing to do with preserving a neutral tint when you have heard the whole evidence in the case. There are such great public principles and matters of public importance involved here, and there are, to my mind, such perilous fallacies, and such hopeless subtleties which cannot be countenanced for a moment, which are involved in a great deal of what has been said on the part of the Defendants, that I think it is time for a man, sitting where I do, to have the courage of his opinions and to say that he cannot back them in any respect, and that this perpetual shuffling out of responsibility which no sensible or sane man can doubt rests upon many of the people here—that this everlasting shuffling of the cards and presenting them in a way somewhat as an experienced conjuror would do in order to discard responsibility, is a thing which seems to me to be contrary to common sense and good law. We are in a place where certainly some vigorous common sense rather than a collection of subtleties, refinements and fallacies which are equally unreal, unworkable and unwholesome, should be the current coin, I think.

I am obliged to speak in that way of the case of those who I hope will allow me to call them my learned friends, because I do wish at the outset to express my deep sense of gratitude to the learned counsel engaged in this case, and of course, especially to the leaders, every one of whom is an old and valued friend of mine; I do wish to express my heartfelt gratitude to them for the spirit in which this case has been conducted, for the manner in which they have walked with fire, surrounded by gunpowder and dynamite and set nothing alight, and for the way in which where the surrounding circumstances offered every temptation to inflame the case and to make it a difficult one for me to try, every temptation of that sort has been by everybody carefully avoided, and the case has been conducted, in my opinion, in a manner worthy of the very highest and best traditions of that great profession to which I and they alike have the honour to belong. I feel very proud of the way in which this case has been conducted by the learned counsel. Perhaps I may say it is not altogether dissociated from an institution which many people are not aware of the value of, and that is our circuit system. Four out of the five leaders who are before me are members of the same circuit, and they know one another, and they get to trust one another, and they get to feel in the friendliest way towards one another. The result is what you have seen in this case—a case with elements of combustibility such as one does not often find represented in a case which has been tried without a spark being dropped anywhere, and I cannot sufficiently express my own personal gratitude to the learned counsel; because the anxiety and the worry that is saved to a judge where a case is conducted in this fashion is beyond belief. Therefore if I speak with disrespect of the propositions which they are obliged to put forward, and to maintain with all the zeal and ability with which they have been maintained, I am quite certain that they will take what I say in good part as far as they themselves are concerned.

Now, having discharged myself of what I feel to be really a duty to the learned counsel in this case, I will proceed straight away to complete what I have to say with regard to the latter part of the case, which is, that the evidence is absolutely overwhelming that there was what the law calls an unlawful conspiracy to molest and injure the Plaintiffs in their business by unlawful means. It seems to me that the case is free from all subtleties upon this subject and free from any nice distinctions, and I shall try to avoid them; because this case will not stop here, as I know very well, but I desire, if I can discharge my part adequately, that it shall stop here so far as any fresh investigation of the facts is concerned; therefore, I shall try to say nothing to you which is not clear and well settled upon the law of the question. So far as the law goes at the present time—I cannot tell what the House of Lords may do at some future time—it is settled beyond controversy.

Now, conspiracy consists in the concerted action, or rather in the agreement to act in concert, by two or more

persons to produce a common end. A conspiracy may be unlawful; it is very seldom applied to anything which is lawful; but I mean there may be concerted action—call it what you will—for any lawful purpose, to any extent whatever, provided it is done by lawful means. But a conspiracy may be unlawful in either of two ways: either it is to compass a lawful end by unlawful means, or it is to compass an unlawful end: and if it is to compass an unlawful end, one need not think much about the means. The evidence as to the means, then, is only of importance as showing the minds of the persons who were engaged in the conspiracy; because the offence of conspiracy is complete when there is an agreement to act together. Of course, it follows still further that it is an actionable wrong if people conspire together, and determine to act together, in concert, for the purpose of bringing about an unlawful end by an unlawful means. Then, of course, it is doubly wrong.

Gentlemen, I did propose to read to you certain extracts from the judgments of Lord Justice Lindley (now Lord Lindley), in some cases which lie before me, but I do not know that it is necessary. There is only, perhaps, one passage which is so full of fairness and wisdom that I think I should like to read it. These observations apply to this case and to every other case: "The Plaintiff has the ordinary rights of a British subject"—and so has the Taff Vale Railway Company—... "he was at liberty to earn his own living in his own way." Let us substitute for that: "To carry on their own business in their own way"—... "provided that he did not violate some special law prohibiting him for so doing and provided that he did not infringe the rights of other people. This liberty involves liberty to deal with other persons who are willing to deal with him; it involves the liberty to engage servants who were willing to serve him. This liberty is a right recognised by law. Its correlative is the general duty of everyone not to prevent the free exercise of this liberty except so far as his own liberty of action may justify him in so doing. But a person's liberty or right to deal with others is nugatory unless they are at liberty to deal with him if they choose to do so. Any interference with their liberty to deal with him affects him. If such interference is justifiable in law, it has no redress": and if such interference as took place with the Taff Vale Railway Company here were justified by law, they would have no redress. I will say a few words about the nature of it by and by.

Now, that lies at the foundation of it all; everybody is at liberty to do that which he has a right to do, and he must not interfere with the liberty of other people to do that which they have a right to do—he must not interfere with it certainly by compulsion, and by undue pressure, unless he has some legal justification for doing it.

Now with regard to the question of legal justification: to my mind, if the acts which were done in this case are brought home to the Defendants as things which they expected and contemplated should be done, such things are of a character which it is idle to talk about there being any justification for in law, and there is no occasion to go into niceties about it. With regard to the earlier history of the case, it seems to me to come to very little more than this, that there was a quantity of agitation going on in the district. The men in various places had been dissatisfied. Holmes was there amongst them. Whether he was the Angel of Peace or the Demon of Strife does not much matter so long as he confines himself to what he has a right to do. It is one of the unpleasant things about this case that the same people figure in such totally opposite characters. I could not help having brought to my mind, as the case was proceeding, a passage in Shakespeare's play of "The Tempest," where Trinculo, the drunken jester, and Caliban get under the same cloak or shelter in order to protect themselves from the storm; and in comes Stephano, another character, amongst the wrecked crew. Stephano being pretty drunk; he thinks that this is some strange monster that has four legs and two mouths, because they are each of them speaking to him, and speaking of the monster which he thinks is before him, he says he has two voices—his forward voice is to speak well of his friend; his backward voice is to utter foul speeches and to detract.

I think that is very much what can be fairly said of Mr. Holmes. It does not follow that because a man is now and then giving, or it may be often giving, advice which

Appendix
—
13th Day.
No. 2—
continued.

Appendix.
—
13th Day.
No. 2—
continued.

in one sense would tend to peace, that he is not a stirrer up of strife, if at the same time he is doing everything he can, notwithstanding the ostensible advice given, to promote ill-feeling and to bring about the labour disputes which we have heard so much of. But it is immaterial from my present point of view, and it is no use my going through the detail of what took place, until we come very nearly to the strike; because my impression is—and it is pretty strong—that there is nothing that can be laid hold of as an actionable wrong, or a thing which a man had not, in a sense, a right to do—I mean in a legal sense—and if he does not go beyond what he has a right to do, there is no use talking about his being legally responsible for it in an action. That there was some misrepresentation, that there was some tendency to exaggeration, may well be, perhaps, thought to be established, or it may be thought that it is not so; but it seems to me to be immaterial.

I propose equally briefly to deal with the Ewington case, and to tell you what the impression left upon my mind is, because it seems to me that the real and serious part of this story, and that which really deserves close attention, begins some where about the 11th, 12th, or 13th August, about a week before the strike began. Now with regard to the Ewington case, my view of it is this: That, whatever the directors or the management had in their minds, exactly that sort of thing took place which, with a set of suspicious people—and we know that in these disputes between masters and employees, the employees are apt to be exceedingly suspicious—just that sort of thing took place which was calculated to raise the feeling which it did raise, and which, I should think, there is no doubt did really prevail in the district. How far Holmes was responsible for it is another matter, but I should think it is exceedingly likely that up to somewhere near the time which I have spoken of, Holmes had no particular reason to differ from the general feeling of the men, and very likely he shared it; and it is impossible, to my mind, to say that the evidence on behalf of the Taff Vale Railway Company on this part of the case is satisfactory. Mr. Harland barely denies that he did say to Ewington what was stated to have been said: and mind you, Ewington wrote that just about the time; I do not know exactly when he wrote to Harland stating that this had taken place; the statement was not very categorically denied in the answer. Nor were Mr. Harland's answers on that part to my mind at all conclusive,—that he did not say to Ewington that he was a troublesome man in other words, and that people who behaved like him must expect to be got rid of—or rather, not to be got rid of, but to have no particular favour shown to them, and so on. Early in the case I was very much pressed in my own mind with the great improbability of a thing of that sort having been said; because it is clear that the directors did not want a strike, and Mr. Harland did not want a strike, and if anything could precipitate a strike it would be the use of such phraseology. But it does not seem to me to have been satisfactorily denied; and I confess it is not to my mind satisfactory when Mr. Harland vouches Ponsford and Hopkins as the persons who received their directions, and when he is in doubt as to the rather critical matter with regard to at what time the directions were given, that neither of them was called. I do not think it is necessary to go further into it except to say that there was a great deal in it which, according to everything that I have ever seen about disputes of this kind, was exactly the sort of thing which would raise the strongest feelings on behalf of the men; because, if they get a notion that a man is being what they call "victimised" on account of his action in a trade dispute, I suppose it is just the one thing of all others which, vulgarly speaking, sets their backs up, and it causes, on that side, a feeling which is laudable and which one cannot help sympathising with, namely, a sort of general feeling—"Here is a man who has put forward our case and who has acted for us, and now he is suffering for it, and we will stick by him."

Now it seems to me it is very difficult for Mr. Holmes to take any advantage of that line of argument after the date which, I think, was the 13th August, on which he made his own speech, in which he said that the differences between Ewington and the directors had been reduced to a point which was infinitesimal and ridiculous. Therefore, whatever ground there may be—and I think there was a good deal which was likely to produce ill-feeling about Ewington's case—and whatever mistakes the management may have made in that matter, they, of course,

had done nothing that was illegal. If we are to allow to the good people whose duty it is (I will not repeat the phrase about "stormy petrels") to hover about on very troubled waters as the daily occupation of their lives, the very considerable latitude which has been pleaded for them with you on their behalf, we are at least to allow the Taff Vale Railway Company to put a man where they like and even to dismiss him if they choose; but they did not dismiss him, and there is no pretence for saying that they dismissed him. If Holmes and other people concerned in this matter, instead of calling this action "dismissal" had described it as it might from their point of view have been described, namely, making him to suffer in some way for what he has done, it is quite possible that the effect might have been just the same; but when you come to consider the conduct of Holmes (and it is necessary to consider it individually afterwards) it is impossible to excuse his using this strong language and repeatedly urging the treatment of Ewington as a ground of strike and as a ground for bringing the men out when he himself had said that there was nothing but an infinitesimal difference left between the railway servants and the railway company. That seems to have been exactly the conclusion to which Mr. Ritchie came. I agree with what was said yesterday, that Mr. Ritchie had not the full means of knowledge of the whole circumstances that we have; and you will have to form your own judgment upon that matter and not accept his.

I therefore take up the story where it seems to me to be material to take it up, and that is when matters were approaching a crisis. I do not think it is at all necessary to point out the exact place at which each person came into this concerted action, because wherever you get a conspiracy, or concerted action of any kind somebody is the leader, and somebody thinks of it in the first instance, and somebody determines to get someone else to join him, and when that person joins him, from the time that persons join him it becomes concerted. That, and that alone, is the time at which it does become concerted. Dealing with this matter roughly and effectively, it seems to me to be so plain that on and after the 19th August there was concerted action between Holmes, Bell, and the Society, who, for this purpose, in order to avoid circumlocution, and with no intention of expressing any legal view about their position, I shall call "persons," the same as the others—it will save time and trouble. How is it possible to doubt it? Holmes attends this meeting on the 19th August. Holmes had done more than that. On the 16th August a bill had been prepared. He says he knew nothing of it until afterwards. That is one of the unpleasant peculiarities of this case: that whenever you get a thing which is at all questionable, and it bears a man's name, and apparently he is the person who is putting it forward, you are immediately told: "I knew nothing about it till afterwards." Then it is asked: "Well, what did you do when you did learn of it?" What did he do? He forwarded it to Bell without one word to say either that he disapproved of it or that he had not done it, or that it was his doing or that anyone else had done it for him.

You must judge of his conduct as well as by what he says in the box. I cannot speak of Mr. Holmes as I shall speak of Mr. Bell. I will tell you presently what sort of impression Mr. Bell has produced upon me. All I can say it is a very different one from that which Mr. Holmes has produced. In that answer of Mr. Holmes with regard to what he meant by the threat that the two Taff Vale men who had remained in the employment of the Company would very soon leave it after the strike was over, and when he told you that it was pointing to the fact that the Taff Vale people would very likely pension them, one cannot feel that a man is a man of veracity, or that anybody can be blamed who chooses to say: "I judge of your conduct and what you did rather than by what you said."

On the 15th August Holmes is preparing for the strike. There is no harm in that if it is intended to be a legal strike and is not intended to go beyond the law: but it is idle to say that that was the intention of it; because that bill said: "Stoppage on Monday," which meant, of course, looking to what was going on, universal stoppage. That was, that the men should be encouraged and asked to meet in order to decide whether they would break their contracts. He had sent that to Mr. Bell, and it is

said that Mr. Bell is not responsible for it. I do not know that he is; but all I can say is this: that I have watched this evidence carefully; I do not say I have looked through it since, because it is physically impossible to do so, and I do not think anything is gained by it after a long investigation like this, because one must depend upon what one carries in one's head. But with regard to the action of Mr. Bell, when he was down there before the 19th on his errand of peace, as he says, I am quite certain that there is no piece of evidence to show that he expressed a word of disapproval to Mr. Holmes of this circular and this proposal to the men or invitation to the men, to come out on Monday.

Therefore you have Holmes clearly contemplating it, because Holmes actually went to the extent of writing the same evening to Cox at Llantrisant, to tell him to have his pickets ready for Monday, and not only to do that, but to warn those who might be inclined to go on with their contracts with the company that they would be considered blacklegs if they did so. Therefore it is very well for Mr. Holmes here to come into the box as mild as a sucking lamb. People do when they assume that attitude, and when they are brought to book for things which they have done, but it is ridiculous for him to say that he was not taking an active part in promoting a stoppage of the whole concern on Monday.

Then he made a speech to them, and the speech says: "Well, I am very sorry you are coming out. I am very sorry that you intend it," and I do not know whether it is in that speech, but on several occasions he said, and said, I have no doubt, with great truth, "I should have preferred"—that is what it comes to—"that you waited until the 13th so that all your notices might go in together." He said, "I should have preferred it," and he said to me, "I was aware of the danger which was going on." I said, "What danger?"—I really did not quite understand what he meant. He said, "The danger that would accrue if the men broke their contracts." Therefore it is quite true, I think, that he was in one sense the angel of peace; that is to say, that he did not want the strike to take place then, but he would rather that it should take place afterwards, because they would not get into trouble by breaking their contracts. But the speech which he made on the 19th, certainly—I mean the first speech, because he made two—he made one after the telegram had come from headquarters, and he made one before—to my mind contains (you will see what you think of it) some very direct encouragements and exhortations to strike and for them to all act together. There are two speeches, one before they knew that the Executive was going to support them, and one afterwards. He points out that there are very considerable dangers to be involved in the course which the men are inclined to adopt, and he says that some of them may have to go to prison, but then he adds that there will not be room for too many of them, because I should think you will hardly accept his explanation that they could not all be locked up; he says: "You men who have given in your notices will not be locked up"—of course they would not. He said: "There was a danger both ways, and he would like to ask which was the worse—to stop work on Monday"—that means with all the consequences which he has been pointing out, which involved imprisonment, perhaps, as he thought, to some of the workmen, but it did not involve imprisonment to himself—"or stop it when they were put to work with blacklegs." Now, which was the worst? Of course he means, and you cannot doubt it in that connection, "It is much better for you to come out now, when you put the Company to every kind of difficulty and inconvenience, than to wait another week, by which time they will have half filled up their vacancies, and your strike will not be so effective." Is not that the meaning of it? Then there is the reference to Cronje and the African War, and I cannot understand that in any other sense than this—

Mr. Eldon Bankes: No, that is Mr. Bell afterwards when he came down.

Mr. Justice Wills: Yes, that is afterwards. Now there are other things, but I want to make it as short as I can: that is a sample. What do you call that except a direct incitement to men to break their contracts? I should have thought no human being could doubt what was meant. If the forward voice is saying: "You had better undergo imprisonment—such of you as may be

imprisoned—and strike all at once without reference to your notices," it is not of much consequence that the backward voice says: "Some of you will have to go to prison, and I would rather you struck when all the notices expire than now."

Now that is the case so far as Holmes is concerned. Nobody can doubt that it was in his mind that the men should strike and break their contracts on the next day, or that night. Then all this time the Executive were deliberating in London. The Executive knows—two men have gone up there to give them information—that the strike will involve this wholesale breach of contract by about 800 men, some of whom, half of whom, had not given notice at all; and notwithstanding that they decide to give the men their financial support. To my mind it is quite childish to say that there can be no responsibility on their part and that they are not acting in concert to do an illegal thing, that is to say, acting in concert with Holmes, because the men had already (although the Executive Committee did not know it) passed a resolution that they should come out on strike. Suppose that a man were to meet a person whom he knew and were to say to him, "My friend, I understand you are going out poaching to-night, and you are going to take Mr. So-and-So's pheasants; well, I am very glad to hear it, and I will give you a five-pound note if you will carry out your intention"; would not be he criminally responsible for what followed as well as civilly responsible? How absurd it is to say that because these men had made up their minds that they would do that which they had not done yet, namely, break their contracts, people are not persuading them, not inciting them, not encouraging them and not helping them to carry out an unlawful concerted action—a concerted action for unlawful purposes—because the men have more or less made up their minds. All the men, it is quite clear from the reports, had not done so, because one man asked what was to be the position of those who had not given their notices, and he said—it is in the report which has been referred to, and I need not read it to you—"If the Executive give support to the movement" (which means strike pay) "I go out with the rest." I daresay there were many others in the same position; there are always waverers; and it is quite new to me to be told, where people agree together to carry out a thing which is unlawful, which is no mere exercise of their rights, which goes a great deal beyond that, and which will do a great deal of damage to somebody with whom they have a controversy, that because one of them comes in only at a later stage when some other people have resolved to do wrong, he is not responsible. To my mind the proposition is absurd as a proposition of law.

You have, therefore, the Executive with full knowledge that the strike was to take place. Now, mind you, do not let there be any mistake about this: nothing shall fall from my lips which shall hint that a strike properly understood is not lawful, or that people can be made responsible by way of conspiracy by action, or criminal prosecution, or anything else, for a strike; but what was contemplated here was not a mere strike, it was a strike complicated with breach of contract, and it will be for you to say by-and-by whether you ought not to add that it was complicated with contemplated and necessary breach of the peace and all sorts of illegalities. Then you have this telegram sent down from London giving the consent of the Executive. To say that when people say they will give you money if you do an illegal thing, they are not advising, persuading, and inciting you to do it, to my mind is absurd; it is the most powerful persuasion that human nature knows.

I speak with some vigour upon points of this kind, because I cannot help thinking that some of the people who come before us, and probably many of those whom they represent, are under some strange misconception about matters of this kind; they think there is a great deal in mere words and in mere talk, and that people will not be judged by their actions as well as by what they say, and they seem to have a notion that responsibility depends purely upon things which are to be found upon paper and not upon a great many other things from which in the daily course of our lives we form our judgments. I think it is time that, so far as I can do so, these things should be pointed out to them, and they should be told that they cannot do and encourage things

Appendix.
—
13th Day.
No. 2—
continued.

Appendix.
13th Day.
No. 2—
continued.

of this kind without coming into trouble for it. When I say "Things of this kind," understand me, I am always speaking of illegal action. I am not speaking of legal action or anything that the Act of Parliament says may be done.

Now, Gentlemen, what is the result of that communication? Why, of course, there is great enthusiasm when this telegram is communicated, and Mr. Holmes makes another speech. This is of importance as showing what he intended and expected should be done. In the first place, there is a discussion about whether the mails shall be stopped. I do not wish to place too much upon any expression of this kind. He uses a very ugly expression, but still I am not sure that it would not be more charitable (and if it is more charitable and does not violate common sense, it is much the wiser thing to do) to place a less formidable interpretation upon it. Mr. Holmes says: "If you pass this resolution"—I am not sure what was the resolution that was at this moment under consideration. This is in the earlier part of the day, is it not, Mr. Bankes?

Mr. Eldon Bankes: Yes, my Lord.

Mr. Justice Wills: I thought I had passed that, Gentlemen, but your attention ought to be drawn to it that upon the motion that the men should come out as one body, the question is asked whether the mails will not be stopped.

Mr. Eldon Bankes: Is your Lordship on page 83?

Mr. Justice Wills: No, I have got to page 78.

Mr. Eldon Bankes: Yes—page 78 shows what took place before those subsequent proceedings.

Mr. Justice Wills: Yes, that is what I was thinking of. Then the question was put about the mails. Mr. Holmes says: "If you pass this resolution, that will be an answer. The job must stop to-morrow morning and the mail can't run." He may have meant no more than this. That answers itself; that it will be impossible for them to run a mail if the engine drivers are out on strike. It may mean that or it may mean something else. Then there took place what I have referred to with regard to the fireman who said he had given no notice himself, but that, if the Executive Committee would support them and give them strike pay, he would come out, and so on. I need not trouble you further with that. Where is the speech which was made afterwards?

Mr. Eldon Bankes: If your Lordship is reading from the *South Wales Daily News*, the resolution is put and carried at the top of the right hand column of page 79, and then his speech comes after the heading, "Executive Telegram."

Mr. Justice Wills: Yes, that is it, thank you.

Mr. Rufus Isaacs: But the resolution at the top of the page 78 had first been carried.

Mr. Justice Wills: Yes, that I pointed out: the men carried that and they adjourned after carrying that resolution, and then came the telegram of the Executive Committee. Gentlemen, I had marked the passages to be referred to upon a piece of paper, but I always find one's notes come to nothing when one wants to use them: I will not stop to look for them now. Holmes makes the second speech, and I have marked a passage which I wish to call your attention to. "He wanted every man off duty on the following morning to get up in good time so as to picket at the stations." Now he says he had nothing to do with the picketing arrangements. "Let them not come within the limits of the law, but of course there were many ways of persuading men." It is for you to judge what that means, and whether that is not a direct incitement to the men to continue in the resolution which they had formed, which at that moment they had not carried out, which they could not carry out until midnight, and as to the carrying out of which one would think that the support of the London Executive must be a most important factor. Now, surely you have the Executive; you have Mr. Bell, who is ordered by the Executive to go down and take charge of the strike, and who knows all about it, and at from that moment, as it seems to me, there cannot be the slightest doubt but that those three persons were engaged together in common action for the very purpose of taking care that the Taff Vale men broke their contracts and that the strike should be carried out.

Now, Gentlemen, I will come to what is involved in that. You know a strike may be carried out so as to be perfectly lawful, and of course, if it were governed by mere words, there would be something in Mr. Isaacs' coaxing suggestion to you that all this meant, "Oh, no, we are to do nothing except to keep within the strict limits of the law. Picketing shall be confined to that which is lawful and in respect of picketing and everything it shall be done with the strictest regard to order and propriety."

Now let me tell you what is legal with regard to picketing and what is not, and what had long before this been decided to be legal. It is very difficult to suppose that men in the position of Mr. Bell and the Executive at least, to say nothing of Holmes, have not watched the decisions of the Courts on points of this kind. A very material thing to call your attention to is the Act of Parliament which deals with matters of this kind—it is the Act of 1875, which is called the Conspiracy and Protection of Property Act. It is the Act of Parliament which legalised strikes, and which I think Mr. Justice Cave described as "the charter of the working man," in matters of this kind. Of course, it was of immense advantage to them: it may have been a mere concession by Parliament of what was right, but I mean it was an immense step in advance for them to have their action of striking at all legalised. Of course Parliament was not going to legalise strikes as they were generally carried out—or I will not even say "generally," but as they were constantly carried out; it was not going to legalise groups of persons standing about with sulky looks and shaking their fists in the streets; it was not going to legalise having groups of men to watch one's house and to see where one was going and to take care that you should at any rate feel it to be very uncomfortable, to say the least, to go the right way: and Parliament was going to take care that that new liberty was accompanied by an adequate security for public liberty and public rights and other people who might be concerned in these movements and who might be affected by them.

Section 7 of the Act of Parliament is very short but it is very intelligible. It is: "Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority—(1) Uses violence to or intimidates such other person or his wife or children, or injures his property; or (2) Persistently follows such other person about from place to place; or (3) Hides any tools, clothes, or other property owned or used by such other person, or deprives him of or hinders him in the use thereof"—which was the case, not of the firebars but of the fireirons, which were said to be attempted to be taken away from a man who was on the engine so that he should not be able to work the fire—"or (4) Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or (5) follows such other person with two or more other persons in a disorderly manner in or through any street or road, shall on conviction thereof by a Court of Summary Jurisdiction, or on indictment as hereinafter mentioned, be liable either to pay a penalty," and so on. Then comes the proviso engrafted upon that—the limitation engrafted upon that which shows what is lawful in the way of picketing: "Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section." Lord Justice Lindley has said that the meaning of that, as anybody would say without the help of Lord Justice Lindley, although one is very glad to have his assistance, is that all these acts which are described there and which are commonly carried out by what are called pickets, are unlawful, except such reasonable use of the privilege of standing about or attending at or near the house as shall be really for the purpose of giving or obtaining information, and that if picketing exceeds that and exceeds it as far as to fall into these very things which have been described, then it is unlawful.

Now is it surprising that, under those circumstances, when Mr. Bell's attention was pointedly called by the Injunction in this case to the fact that at last the Courts

would step in and prevent picketing which amounted to intimidation or to persistent following or to watching and besetting, and so on—when he learned that that was forbidden by the Courts and would not be allowed—is it altogether surprising that he should have indulged in the expressions in which he did indulge, and which are to be found in one of the passages I was going to refer you to which I wish to read accurately. He is stating at this time the things which induce him to put an end to the strike, and so on, for which he asks to have more credit given him than he is entitled to under the circumstances at that time, whatever may be said of him before. He says: "I had also in mind the fact that an injunction was applied for against myself, Mr. Holmes, and the Society which would absolutely prohibit any description of picketing, without which it would be impossible to continue the strike." Now does he not mean to say that all the picketing that is of any use falls under what Mr. Justice Farwell forbids; in other words, that it falls under the description of "unlawful picketing," and he seems to have been entirely of the same view as Lord Justice Lindley when he made an observation which is reported in one of these cases, which is not a matter of law, and is not an observation which I gave to you as a piece of law, but an observation that is a piece of common sense, and which, it seems to me, expresses pretty accurately what Mr. Bell meant to say by that, and what he had in his mind. Lord Justice Lindley said, in the course of a discussion in one of these cases: "You cannot make a strike effective without doing more than is lawful."

Now, if that was Mr. Bell's view, can anybody doubt that he meant to say this judgment which forbids our doing anything more under the name of picketing than is lawful is disastrous to us—picketing is no use. If that was what he meant, and if that was his view, was it likely that he should have had nothing to do with the picketing, and that he was not responsible for picketing? He was sent down to take charge of the strike, and so much so that he issued orders that nothing shall be attended to except what is signed by him. Then we have the usual thing gone through; there are telegrams of a most compromising character, and he says: "Oh, no, I had nothing to do with that—that is Mr. Ball, not Mr. Bell." Who was Mr. Ball? He was a clerk employed in the office, and he was down with me working in the central committee room; and if Mr. Bell is too busy to see his own telegrams before they are sent, or the telegrams which are sent in his name if they are sent from headquarters, if they are sent ostensibly in the name of Mr. Bell, and if he takes no pains to see what it is that the persons who are allowed to telegraph in his name send, do you think it is going too far to say that he gave them a general authority to send what telegrams they thought fit in relation to the organisation and the carrying out of the strike; and can you suppose that these things were really done in the office by mere wholly irresponsible persons without Mr. Bell either knowing their contents, or if he did not know them, not knowing them, because he had got too much else to do and because he left the things which were necessary to be done in the course of the strike to subordinates to do? If that is so, the man who was in charge of the strike was surely responsible. He has the general conduct of it.

Now I think no one can quarrel with the description of a strike as being a dangerous implement of warfare. It is one that is very liable to abuse and is very liable to lead to such things as were done here. Do you think that if a man chooses to picket all over the place and to have an army of men, 1,200 men—I was astounded when I heard that piece of evidence: I had no idea that there was anything of the kind—when he set to work 1,200 irresponsible men with no section of leaders that I can find, no man in the position of captain, lieutenant, or even sergeant, who has any control over them, and when he sets to work a dangerous machine like that, it is enough for him to say, "Well, if it had been properly worked and worked with due regard for everything being in perfect order, which is all I meant, there would have been no harm done"? There is an old German legend, which I daresay many of you will recollect, of one Frankenstein, who spent many years of his life in attempting to create a man, and to breathe into him the breath of life. He did so, according to the legend, but he had forgotten that he had not studied how to introduce into him any moral sense, or any sense of responsibility

And Frankenstein's monster went about the country and did unheard of things. Now I think if an action had been brought against Frankenstein in an English Court the things which that monster did, Frankenstein would have had great difficulty in getting out of the responsibility by saying, "I only intended to make a man, and I am not responsible for what kind of a man he turned out to be."

It does seem to me to be absolutely childish to suggest that people can set in motion these dangerous organisations, can discharge themselves of the duty of exercising any personal control over them, can leave them to work out their own salvation and other people's ruin, and then say, "Oh, it is no doing of mine. It is the excess of these pickets and the people they picked up and unauthorised people outside." Well, just drop the "unauthorised people outside."

I have looked with some care into this, and I think I am right in saying that there is no case but one in which violence or threats have been proved in which it has not also been proved that some one or more of the persons present on that occasion, and taking part in what was going on, were Taff Vale servants. Now we know that there were no less than 1,200 servants out on strike. The strong presumption is that they were strikers, and that they were people who were employed and paid by the Executive Committee. You may rely upon this. They seem to keep their books and their accounts in an admirable fashion; and let me say this, that whilst I am obliged to say these things which I have been saying against them, and which, if I did not emphasise, I should be unworthy to sit here, because the results are so shocking, do let me say one word of commendation which they thoroughly deserve; the honesty with which disclosure has been made in this case of every damaging document and piece of correspondence, or anything else, is beyond all praise. I have never tried a case in my life with one-tenth part of the number of documents which are involved in this case where there has not been some complaint of documents being withheld, and not disclosed and so on; generally speaking, nine times out of ten it is accidental; but sometimes it is not. If ever there was a temptation to withhold documentary evidence of this kind it existed in this case; and I think that the integrity with which this has been done ought not to be passed by without a word of serious appreciation on my part.

But we have the documents, and can you doubt that the man who was sent down to take control of the strike, who used the committee room, the clerks and the organisation, is responsible for the outline—and the merest outline will do—of all that has taken place in this case? I should be sorry to say that he was necessarily responsible for such acts of violence as were done in the committee room itself; but they were a warning of what was going on, and what was likely to take place outside, and I should be sorry to say that either Mr. Bell or Mr. Holmes were personally responsible for such things as that. I am quite certain that, so far as that is concerned, it was really and *bona fide* against their judgment and every wish and every feeling that they had about the matter. But in the same way Frankenstein did not approve; when his monster set fire to people's houses and did all sorts of other things, he did not approve of it, but he could not stop it. There is the danger—you cannot stop it when once you set irresponsible people to do a thing in this way.

Then is Mr. Bell shown to have more or less personal interference in it? Well, there is that scene at the railway station and there is his "blackleg" circular. Now I must say a few words about that. Is that a lawful means of persuading people not to work for the Taff Vale Railway Company? That is for you. If you think it falls within the legitimate area of mere representation and communicating information, and so on, well and good. I do not wish to enter upon the somewhat disputable question of whether mere persuasion, mere argument, reasoning unaccompanied by anything else in order to persuade a man to break his contract, is actionable under any and all circumstances. Under most circumstances it is actionable; it is so generally unless there is some lawful excuse for it. But can you imagine that they can suggest that there was lawful excuse in this case for the kind of persuasion that was used in this case? The "blackleg" circular is a most important document, and it brings Mr. Bell down a bit, I must say. "Blacklegs" I have always

Appendix.
—
13th Day.
No. 2—
continued.

understood to be amongst working men a word of terror, and it is used, I should have thought, in respect of these strikes a good deal, because it is a word of terror. But that is for you to say. I quite agree with the remark which fell from Mr. Thomas, namely, that when men are writing to one another about what concerns the strike, "blackleg" may be used perfectly harmlessly; they are not likely to use circumlocution and to say: "We simply mean imported men and things of that kind." It may be used perfectly harmlessly; but when it is used in these circulars, and when it is used in Holmes' letter or telegram to Cox, in which he tells him to tell the people about there that they will be "blacklegs" if they come to take employment with the Taff Vale Railway Company, do you think it was intended simply to mean a person who does not sympathise with the strike, and who replaces another man? One does not like to use, and I am always reluctant myself to use, the sort of knowledge that I cannot fail to pick up in trying cases pretty nearly daily during a great part of the year for the last eighteen or nineteen years. I cannot fail to know something about it; but I asked Mr. Holmes whether I was far wrong in saying that it was a word which implied a state of circumstances with regard to the object of it which might, I do not say always does and I do not mean for a moment that he meant it, or that Mr. Bell meant it—but which might mean that it would be very difficult indeed for the men to get a living there or anywhere else afterwards; and I think you will bear me out when I say that he did not seem to me to differ much from my interpretation. He said: "It might be so occasionally." Well, if so, it is a word of terror. I ought to have told you when I read the section from the Act of Parliament to you, that intimidation has been, by judicial construction, confined to that which imports a threat of personal violence, that which raises a well-founded reasonable apprehension of personal violence, to be offered to the person intimidated. But taking it even so, was this "blackleg" circular circulated to suggest to people who read it that even those vague consequences might follow if they did not choose to obey the dictates of the strikers?

Now, I will not go through the rest of the evidence upon this point. I have picked out from my notes some dozen or fifteen, or perhaps more, cases of actual personal violence which was used by the strikers. In some of these instances the feat was reported triumphantly to headquarters, and I do not observe that there is any answer from Mr. Bell or from anybody responsible saying: "Good heavens, what are you doing, you are breaking the law; you are using violence and you have reported it; I cannot pay you your strike pay." We know that every one of the strikers, whether they did this or not, appear to have been paid strike pay indiscriminately. That took place without a word of remonstrance or a word of reproof, so far as I can see. Nor, excepting in those instances for which I should like to give Mr. Holmes all the credit that he deserves, in which instances he did protect people from personal violence in the rooms, is there a word in the correspondence that we have heard read of disapproval except in a vague general sense, nor is there any instance in which a man has been reprimanded because he had taken part in an outrage of this kind. I think it is in vain to look for it, because we should certainly have heard of it if it had taken place.

If you think that the strike was carried out by thoroughly illegal means, by means which the Conspiracy and Protection of Property Act denotes as illegal, by those who organised the strike and those who conducted it for the Executive, then Mr. Bell must be responsible generally for the strike. Bell was sent down for the very purpose of taking charge of it, and if you think that it was carried out by thoroughly illegal means in the sense in which I have explained illegality to you, that it was conducted by those means, such means being known to Mr. Bell, and no steps being taken by him to prevent them for the future, or to reprimand those people who had been guilty of them—if you think that is the case, when you know his view about what picketing must involve, in order to be useful, and that it must involve something more than what had been decided to be lawful, have you any doubt as to his responsibility for the general course of this strike in all its illegalities and excesses? I do not say for every one of them, and I ask you to put out of the case such things as the personal violence administered in the rooms and objected to on the spot,

and so on. But can you have any doubt about Bell's responsibility? It is no answer for him to say: "I was the servant of the Executive." That is the sort of thing we are met with everywhere. "Oh, I did this as the servant of the men," and so on. I have purposely excluded those earlier periods where the action with Mr. Holmes may be somewhat doubtful as to how far it was his own and how far it was in his representative capacity: I have asked you to pay no heed to them and to take up the story for all practical purposes a little before, or somewhere about, the 19th August; or at the 19th August—it does not matter which. From that point can there be any doubt about the concerted action of these three persons, who do illegal things for the purpose of furthering this strike, and who bring about a strike which involved breaches of contract on the part of some 800 men, and which they knew would lead to exactly the sort of consequences which did take place? If so, they are responsible.

Now, I have said all that I mean to say upon that and what remains will be very short indeed. I have said all I have to say on the question of whether the Defendants conspired together to molest and injure the Plaintiffs in their business by unlawful means, those unlawful means comprehending the breaking of contracts by numerous men and the inevitable commission of a great number of illegal acts by the pickets. If you think they did, you will say "Yes" to that.

I should like to add a few words about what has been said with regard to Mr. Holmes. It was said that he modestly retired into the background as soon as the strike began. What does it matter? He did not, in point of fact, because he made one of his worst speeches, I think on the 22nd or 23rd August—I mean that one in which he said what would happen to Taff Vale men, which was to my mind about as bad as anything the man could say. He did not retire into the background, but you are invited to suppose that after that time he was doing nothing but going about his duties as servant of the Association. All I can say is—and I wish it to be thoroughly understood that it is my view, and it is a view the soundness of which I do not think any lawyer can doubt for one moment—that if persons help one another to carry out unlawful acts, acts by which other people may be damaged and for which there can be no excuse, and which are illegal, if they help one another in the general machinery by which an operation of that kind is carried out, it does not matter in the least what special department A occupies, or B takes, or C takes; all those who are engaged in it are equally liable; they are engaged together in an illegal transaction.

I do hope that these good people for the future will feel that on the whole I have not done an unfriendly thing to them in trying to point out that in courts of law and justice realities will be dealt with, and not shams; and that all these attempts to shuffle out of the effects of concerted action to do illegal things are likely to end disastrously to those who are involved in them. There is no one who would be more glad to say kind things to these people than I should. I have administered justice in Wales over and over again, and in South Wales, with the utmost satisfaction to myself, and I have found that I could get as thorough justice done there and as honestly and fearlessly as in any other part of the Kingdom; and, notwithstanding what people are very apt to say, I have found myself that an earnest appeal to men in Wales to discard prejudice, to do their duty, and to look things in the face, as honest men should do, has very seldom failed. Indeed, I do not know that I can remember in Wales, although I have tried a number of cases into which political prejudice and difficulties have entered more than usual, a single instance of a miscarriage of justice in any case in which I have been concerned, at all the Assizes at which I have been there. Therefore I have a kind feeling towards these people; I do not share in any prejudice which can be entertained against either working men or Welshmen or anybody else; I say my own personal connection with the administration of justice in Wales has been satisfactory to the last degree. But one is no friend to people if one does not point out to them that all these ingenious sophistries and subtleties by which men attempt to shuffle out of their obvious responsibility are no good in a court of justice, and that it is far better for them to face the real view which will be taken of transactions of this kind by those who have

to judge of them than to fancy they can shelter themselves behind this shuffling of the cards and saying: "Oh, I did not write this and I did not write that, and I was away when so-and-so was struck," and so forth. If they are all combining to do the wrong thing, and doing the wrong thing involves the specific act complained of, then it does not matter if they are helping in it and consciously helping in it, and knowing what is going to be done; they are just as much liable as if they were actually taking part in the physical and moral illegalities which are taking place.

Now, the second question will take scarcely five minutes. It is: Did the Defendants, or either of them and which of them, unlawfully persuade the men whose notices had not expired to break their contracts? I have said all that I wish to say with regard to the share of each of these three in inducing the men to break their contracts; and the reason why I put this is because the Statement of Claim puts it in two ways and it is desirable to dispose of them both. It says first that there was a conspiracy (as to which I say no more), and, secondly, whether there was a conspiracy or not, each of these Defendants is liable for things which have been unlawfully done—without troubling or heeding whether it is a conspiracy or not. Then the question is: Did they unlawfully persuade the men whose notices had not expired to break their contracts?

Now, when you do an act which is *prima facie* likely to damage your neighbour and which of itself is not lawful, the persuading of people to break their contracts has, in a general way, been held by our Courts (and it is settled law now) to afford a ground of action, but to say that it will do so in every event and in every case would, I think, be going a great deal too far. You could not have a better illustration than that which was put, I think, by Mr. Abel Thomas in his speech, and which, I think, has been put somewhere else in one of the cases, if I remember rightly, namely, supposing a servant girl to be under a contract of service, and supposing she were to say to her father that there were attempts being made to make her situation uncomfortable and improper addresses were made to her, or anything of that kind, would he not be justified in advising her to break her contract so that there should be no action brought against him? I should say emphatically that he would, and the reason would be because he would be discharging then a social and moral duty. There may be circumstances short of that which may justify such a thing, and if the persuasion in this case which we are dealing with was confined to anything like pointing out the consequences—I mean legal consequences and reasonable consequences, and when I say "legal consequences" I mean lawful consequences—consequences which did not carry with them a veiled threat such as "you will be considered blacklegs," if that were all, if they were simply to say—I hardly like to put an instance, because I am afraid that it might be understood and abused, and at some future time they would say: "Mr. Justice Wills said this or that might be done." Therefore, I rather refrain from giving an illustration, but if the persuasion did not involve in it anything which was clearly unlawful for the purpose of this case—pray do not understand me as laying this down as general law, but it is what I ask you to deal with in this case in order that we may have no question for the future—if the persuasion in this case did not involve any threat, or coercion, or intimidation, or watching and besetting, or any of those things which are forbidden, then I advise you to treat it as lawful. But did they, the Defendants, unlawfully and going beyond that, persuade these people whose notices had not expired to break their contracts? If you think they did, then you must say "Yes," and if you think they did not, you must say "No."

Now with regard to Holmes, I am not going to trouble you with Holmes' state of mind. The House of Lords held the other day that a thing which did not afford a ground of action in itself did not become actionable because a man did it from a very bad motive. Therefore it is very little use, as it seems to me, inquiring whether or not Holmes in what he did was actuated by the motive of aggrandizing his own Society, or his own place in the Society, or of rubbing off old scores with Mr. Beasley, or not. There is a great deal to be said in favour of that element having entered into his mind,

certainly, but I do not think it is necessary to discuss it because, when we come to an act which is illegal by itself, that affords a ground of action. If we come to one that is not illegal by itself, then, as I understand the Judgment of the House of Lords (I think if it is pushed to its extreme limits it will lead to some very curious results; but still, there it is) if the thing done is not unlawful in itself, the fact of its being done with a malicious motive does not make it a ground of action.

Therefore, I shall not trouble you or trouble myself with all the evidence which has been given to show that Holmes' voice when he was speaking as an apostle of strife was or was not preferable to his voice when he was speaking as the Angel of Peace. So far as I know, the only matters which I have marked and which appear to me to be material upon this part of the case (although it is very possible that I have forgotten something) are these—we begin with the 12th August: There is somewhere about that time a report of an interview with Mr. Holmes; it is in his evidence which was given before the Committee of Inquiry of the Society which inquired into the complaints which Bell was making against him that he was insubordinate; and Holmes admits that this is a correct representation of what he said to the reporter of the *South Wales Echo* on the 13th August: "The Press representative enquired if there was any doubt as to the men receiving the support of the Executive of the Amalgamated Society, and Mr. Holmes replied that he had no fear on that point." He feels quite convinced that he will be able to induce the Executive to act with him, and I think one must take it for granted that at that time (it will be for you to say whether I am wrong or not) the only strike which was in contemplation was a strike which would take place immediately—that it should be an immediate strike. "Mr. Holmes replied that he had no fear on that point. The dismissal of Signalman Ewington put the dispute on a par with that of the North Eastern Railway in 1897, when seven men were treated in a similar manner to Ewington, and the Society stepped in and protected them." That is on the very day on which he has been saying that the dispute about Ewington is now so infinitesimally small as to be ridiculous. Of course he knew that this would go into the paper and would be read, and he is representing that the strike is on a par with that of the North-Eastern Railway in 1897, when seven men were treated in a similar manner, and the Society stepped in and protected them. Then: "When the matter was fully laid before the Executive by the deputation on Sunday next, he was convinced that they would give their support to the movement," that is to say, he is telling them that they might hope for the support of the Executive, notwithstanding that a great number of the contracts would be broken. "'But failing that,' added Mr. Holmes, 'the Committee'"—that is the Workmen's Committee—"are going to appeal to the 600 branches of our Society and ask them to contribute out of the Management Fund, as they had full power to do, £1 per 100 members. By that means we hope within the course of a few days to get £2,000. That will tide us over a month at least; that is in the event of the Executive not sanctioning the movement. In addition to that we have received promises from gentlemen who are willing to help us financially and otherwise. In fact, you may take it from me that I have not the slightest fear of being able to meet any financial emergency, even if the men were out for six months"; and he says, "I accept the responsibility emphatically."

Then on the 13th August he writes to Moses Jones saying that he will bring out the firemen. He says: "I cannot understand why you are working in the way you are. I tell you candidly it spells failure. Do you know only 190 notices of the signalmen have gone in? Do you know how many have withdrawn? Is this a sufficient number out of 250? Now don't misunderstand it; the other grades are prepared to stand by Ewington, but not if you are going in the way you are. There are 50 signalmen not signed—now we have considered this position, and unless you are prepared to work with the other grades I am to issue a circular on Wednesday; in the meantime we shall advise Ewington to accept the offer made by the Company." There he says: "I am to issue a circular and therefore I shall issue it." He cannot get out of his personal responsibility for these things by saying that he was merely the servant of the Committee.

Appendix.
—
13th Day.
No. 2—
continued.

He says : " I am to issue a circular on Wednesday." Now we know what that circular was—it was the circular which invited all the men to turn out and which was accompanied by the bill calling the meeting to stop work. Then : " If you are prepared to work with us, then we will bring the men out on Ewington's case "—he was going to bring the men out. " I got the firemen to send in their notices at their meeting last night on Ewington's case alone." Now it is unfortunate that he should be representing that he got the firemen to come out on Ewington's case alone when he thought that Ewington's case was one where the difference between the Executive and the Railway Company was infinitesimal and ridiculous. Could he have put the case fairly before the firemen ?—because you are not entitled to use unlawful means—you are not entitled to fraudulently misrepresent things in order to bring about even that most legitimate thing—a strike.

There is next his speech on the same day where he says it is infinitesimal and ridiculous, and then comes the circular which was issued and for which, certainly, he is responsible. That circular he forwarded to Mr. Bell, and Mr. Bell had full opportunity of knowing what it was. In this circular he says two things which appear to me—it is for you to say—to distinctly contemplate action which is illegal unless there be some lawful excuse for it, which I will deal with in a moment. The circular states in one part : " There is to be a serious question decided at Sunday's meeting : Shall all the men cease work on Monday ? If not, what is the position of those working the following seven days ? " One can hardly doubt what his own state of mind was, because, although he says he preferred the strike should take place later, yet he does say to them, undoubtedly : Which is the better thing ? to obey the law and fail to come out on Monday or to run the risk of imprisonment, &c., and to take the advantages which follow from that course ? Nobody can doubt which of the two he was at that time advocating. Then he says further on in the circular : " I have personally not one shadow of doubt as to the result if the 800 men will only be true. We can settle this dispute in our own way ; and I am decidedly of the opinion the best way to settle it now is to stop the wheels for a few days "—and to call out the men regardless of their notices.

Then on the 16th he is preparing for war. One might almost suppose he had read Tacitus—I think it is in the Germanicus of Tacitus or the Agricola, I really forget which—in which one of the German chieftains who was at war with the Roman power concluded a most graphic and animated speech by saying "*Si vis pacem, para bellum*"—"If you wish for peace, prepare for war—a maxim which Mr. Holmes expressed in very good sensible English instead of in the Latin from which it originally came.

On the 16th he is having his pickets ready at Llantrisant, at all events ; on the 18th he publishes his circular, in which he says that the Company have arbitrarily dismissed Ewington. Now, is that an honest representation on behalf of a man who does not believe that, so far as Ewington is concerned, there is now anything which is of any consequence, and who, in the same speech in which he said that, puts the real necessity for the strike on the question of representation ? If that is not honest, if he did not believe that Ewington had been arbitrarily dismissed, it is for you to say whether that is a lawful means. Dismissed he had not been ; I have pointed out that it is not a very very great exaggeration when you know all the facts, but I daresay that nine-tenths of his hearers really believed that Ewington had been dismissed, and had lost his employment and his chance of getting a livelihood ; I should have believed it if I had known nothing about it and had had that stated to me. It is for you to say whether that is a lawful means of carrying on the war, or whether that is not procuring a strike by wilful misrepresentation. If so, it is by unlawful means.

That is the circular also which stigmatises in strong terms those who should take work with the Taff Vale Railway Company as "blacklegs." Then you know what he did on the 19th. You cannot dissociate this from the means by which the advice was intended to be carried out. If you think that what Holmes was really doing was trying to persuade the men to come out on strike, with all its consequences of illegality as well as legality, then he was doing much more than anything which can be called legitimate persuasion. Now, so far as Mr. Bell

is concerned he also was persuading these men, there is no doubt about it, when he took up the cudgels and when he came down ; and when he was down there he also was—at least, it is for you to say whether he was—persuading the men whose notices had not expired to break their contracts. He was the General Secretary ; on the evening of the day on which this was to be carried out he was writing to say that he and he alone had charge of the strike and it was in his hands. Now, was he not backing the advice to the men to break their contracts, and is there any just or lawful excuse for it ? I can see none.

Mr. Rufus Isaacs : Would your Lordship excuse my interruption ; that speech is made on the 20th after it has been done.

Mr. Justice Wills : I was not referring to his speech.

Mr. Rufus Isaacs : And the letter.

Mr. Justice Wills : But he sends down the telegram ; the telegram comes from him to the men saying that the strike pay will be granted.

Mr. Rufus Isaacs : Yes, I agree with that, but it is after the resolution.

Mr. Justice Wills : Well, if the thing that is being done is illegal he cannot shelter himself by saying he was ordered by his masters to do it ; he sent it and he is responsible for it. If the thing is illegal, if you think that that was an incentive to the men to break their contracts, and if you think there is no lawful excuse—I do not know how to put a lawful excuse—it is no answer to say that his master told him to do it. He did it. He does not enter into any argument with them ; it is not a case which may be on the debatable line with regard to picketing and giving advice, or giving information and so on, but he is to my mind actively a party to inciting the men to break their contracts.

What is the excuse and the only excuse ? The only excuse is that the men wanted to have their own way and to compel the Railway Company to reinstate Ewington, or to receive deputations from the Society, or both ; and I take the responsibility of telling you that in my judgment that is no lawful excuse, that it does not make it in the least better that he may have had a strong view that it was the best thing to do in the interests of the men. If you incite a man to do that which he has no right to do it is no answer to say : " It will be of great advantage to me or to someone else whom I represent if he does break it." If you are going to prevent something which any right-minded man would say ought to be prevented, such as the case of the attempted seduction which was put before, I can very well understand that being a legitimate excuse, and I can well understand that there may be circumstances which may make a thing of that kind legitimate ; but to my mind—and I take the responsibility of saying it—in this case there is no evidence at all of legitimate excuse for that purpose ; and if there is no legitimate excuse, it is what the law calls malicious—a term which I have been avoiding because it leads to endless confusion ; but it creates a state of things which is quite sufficient to support this action for inciting another person to break a contract. Then, with regard to the third persons, the Executive, they stand on the same footing.

Now, the only other question I ask you is : Whether they, or either and which of them, authorised and assisted in the carrying out of the strike by unlawful means ? What I have to say about that has been covered by what I had to say on the first question, and therefore I shall trouble you with no further remarks upon it.

I have expressed most unfeignedly my great obligations in this case to the Gentlemen at the Bar for their services. Let me conclude by words of grateful recognition for yours, because this has been a most serious matter for many of you, I am quite certain, and yet you have listened throughout to that which might have been sometimes a dreary thing to listen to with patience, care and attention, which seem to me to be as worthy of my recognition as the conduct of the learned counsel.

I will hand these three questions to you and ask you to answer them. (*Handing.*)

(*The Jury briefly conferred in the jury box.*)

Mr. Justice Wills : Will you allow me to add a few words. I do not think they will have any material

bearing upon what I was saying, but Mr. Isaacs has been kind enough to remind me that I did at one period of my summing-up say that I should like to point out that I entertained a very different view with regard to Mr. Bell's character to that which I did of Mr. Holmes, and I am obliged to him for giving me the opportunity of saying this. It is not possible in a long and complicated case like this not to forget something, and I am very anxious not to say one word more than is necessary against anybody. My impression of Mr. Bell, I must say, on the whole is very favourable. I am not at all sure that if Mr. Bell were in the same position in which I am with an assured salary and with an assured position, and that if I were a labour employer and there was a labour dispute, that I would not accept Mr. Bell as arbitrator. I cannot put it higher than that. But unfortunately Mr. Bell is not in that position; he has his masters to please as well as to do that which is right in itself, and it is quite obvious that he has very difficult masters to please. I was very much struck with that resolution of the Pontypridd Branch which I had never heard of until yesterday, in which they actually attempted to get Mr. Bell out, because he had been trying to do reasonable things; he is in a very unfortunate position and I am very sorry

for him. If I have been obliged to say strong things as to his responsibility in the matter, I am only the more glad to say that there is very little of personal disrespect that I should be disposed to feel—there are things which I could not say I think right, especially after he had joined the strike movement—but still I think he has left a very pleasant impression on the whole in my mind as to all the earlier parts, and I think if Mr. Bell had been allowed to have his own way it is very likely that things might never have come to the pass that they did. I only say that out of justice to Mr. Bell, because I do not think it affects really any question I have put to you.

(The Jury further conferred without leaving the box.)

The Associate: Gentlemen, are you all agreed?

The Foreman of the Jury: Yes.

(The Foreman handed the Questions, and Answers to his Lordship.)

Mr. Justice Wills: To my first question you say "Yes"; to my second question you say "Yes, all of them"; and the like answer to the third.

The Foreman of the Jury: Yes, my Lord.

Appendix.
—
13th Day.
No. 2—
continued.

SEVENTEENTH DAY.

Appendix.
17th Day
No. 1.

1.—COPY of LETTER issued by THE MINING ASSOCIATION of GREAT BRITAIN *re* TRADE UNIONS and TRADE DISPUTES BILL, 1904.

(Handed in by Mr. Robert Baird on the Seventeenth Day. See Question 1582).

6, Strand, London, W.C.,
15th April, 1904.

SIR,—I am instructed by the Executive Council of this Association to invite your attention to a Bill presented by Mr. Paulton, M.P., and intituled, "A Bill to amend the Law relating to Trade Unions and Trade Disputes," appointed for Second Reading on Friday, the 22nd instant, and being the first Order for that day.

There is another Bill introduced by Sir Charles Dilke, M.P., entitled, "A Bill to legalise the peaceful conduct of Trade Disputes and to alter the Law affecting the Liability of Trade Union Funds," which is also appointed for Second Reading on the 22nd instant, but is the fifth Order.

The objects of this Bill are similar to those of the first-named Bill, but as the discussion will no doubt take place upon Mr. Paulton's Bill, the following observations are directed more particularly to it.

A Bill upon the same lines was introduced last session by Mr. Shackleton, M.P. Although the objects of the Bill were similar, the title then given to it was: "A Bill to Legalise the Peaceful Conduct of Trade Disputes." It is believed that the contention of the promoters of these Bills is—

- (a) That some alteration of the law is necessary to legalise the peaceful conduct of trade disputes; and—
- (b) That the recent decisions which have made the funds of trade unions chargeable with the damages which may be sustained by persons injured through the misconduct of trade union officials constitute an injustice which the Legislature should remedy.

Peacefully conducted strikes are legal.

Prior to the passing of the Conspiracy and Protection of Property Act, 1875, a combination of workmen for the furtherance of a trade dispute fell within the criminal offence of conspiracy at common law. Such a combination, however, was removed from that category by section 3 of the Conspiracy and Protection of Property Act, 1875.

The section provides, *inter alia*, as follows:—

"Section 3. An agreement or combination by two or more persons to do or procure to be done any act, in contemplation or furtherance of a trade dispute between employers and workmen, shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime.

Nothing in this section shall exempt from punishment any person as guilty of conspiracy for which punishment is awarded by any Act of Parliament.

Nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace or sedition, or any offence against the State or the Sovereign."

So long, therefore, as a trade dispute is conducted peacefully no legislation is necessary to legalise it, as it is now distinctly legal.

The clauses of Mr. Paulton's Bill are as follows:—

Clause 1.

1. It shall be lawful for any person or persons, acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following

purposes at or near a house or place where a person resides, or works or carries on his business, or happens to be:—

- (1) For the purpose of peacefully obtaining or communicating information;
- (2) For the purpose of peacefully persuading any person to work or abstain from working.

Section 7 of the Act of 1875 provides as follows:—

"Section 7. Every person who, with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority:—

1. Uses violence to or intimidates such other person or his wife or children, or injures his property; or
2. Persistently follows such other person about from place to place; or
3. Hides any tools, clothes, or other property owned or used by such other person, or deprives him or hinders him in the use thereof; or
4. Watches or besets the house or other place where such other person resides, or works, or carries on business, or happens to be, or the approach to such house or place; or
5. Follows such other person with two or more other persons in a disorderly manner in or through any street or road,

shall, on conviction thereof by a court of summary jurisdiction, or an indictment as hereinafter mentioned, be liable either to pay a penalty not exceeding twenty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

Attending at or near the house or place where a person resides, or works, or carries on business, or happens to be, or the approach to such house or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of this section."

To constitute an offence under this section the *object* must be "to compel another person to abstain from doing, or to do, any act which such other person has a legal right to do or abstain from doing, wrongfully and without legal authority." The *methods* referred to in the sub-clauses of the section cannot be adopted to secure that object. The concluding paragraph of the section, however, provides that where the object of attendance at or near the house or place where a person resides or works or carries on business, &c., is merely to obtain or communicate information, it is not to fall within the offence created by the Section.

At first sight the amendment proposed by the Bill would seem merely to exclude from the operation of this section cases where the watching and besetting is for the purpose of "peaceably persuading any person to work or abstain from working." It is respectfully suggested that it goes much beyond that.

Under the existing law persons may be peaceably persuaded, provided the *method* employed to persuade does not constitute a nuisance to other people.

Clause 1 of this Bill would not only expressly legalise a method by which men and women desiring to work might be terrorised into abstention, but whereby great inconvenience and damage might result to persons who had nothing whatever to do with the dispute,

At a time of great excitement it would legalise the assembling of a crowd of persons at or near the house of a workman, and the premises of an employer, and however serious the inconvenience, so long as there was no actual breach of the peace, the police would be powerless to remove them. They would be entitled to be there under the provisions of this clause, and although their presence would be a menace not only to the workpersons but to others, it would be a sufficient answer to any attempt to prevent such a general nuisance, that this clause authorised such assemblages.

In the case of *Quinn v. Leatham*, 1901, A.C., p. 538, Lord Lindley made the following remarks with reference to peaceable persuasion:—"What may begin as peaceable persuasion may easily become, and in trade union disputes generally does become, peremptory ordering, with threats open or covert of very unpleasant consequences to those who are not persuaded. Calling workmen out involves very serious consequences to such of them as do not obey."

It is respectfully suggested that to legalise persuasion by the method proposed would seriously endanger, not only individual liberty but public order.

Clause 2.

2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute, shall not be ground for an action if such act when committed by one person would not be ground for an action.

It will be observed that the wording of the second clause of the Bill closely follows that of the first paragraph of Section 3 of the Conspiracy and Protection of Property Act quoted above, except that the section of the *Act* relates to a *conspiracy* and the clause of the Bill to an *action*.

The first paragraph of Section 3 of the Conspiracy and Protection of Property Act, 1875, removes a combination of workmen for the furtherance of a trade dispute from the criminal offence of conspiracy. That was necessary to make a peaceful strike legal, and it did fully legalise the peaceful conduct of a trade dispute.

In considering the civil aspect of the matter, however, if a combination of two or more persons can do no more than one person is supposed to do, there might be some reason for the change; but—again quoting from Lord

Lindley's judgment in *Quinn v. Leatham*—"But numbers may annoy and coerce where one may not. Annoyance and coercion by many may be so intolerable as to become actionable, and produce a result which one alone could not produce."

3. An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union, or other association aforesaid.

The effect of what is proposed by this clause and the preceding Clause 2 would appear to be to relieve the funds of trade unions from pecuniary liability for injury inflicted upon others by their authorised agents who transgress the law. It is respectfully submitted *that* is not necessary to legalise the peaceful conduct of a trade dispute.

The second reading of Mr. Shackleton's Bill was before the House of Commons on the 8th of May, 1903. Mr. Galloway moved an Amendment in the following terms:—

"That this House declines to consider a Bill dealing only with certain points affecting trade disputes, inasmuch as it considers any legislation on such a subject should deal with the question as a whole, and when Parliament is in possession, by the Report of a Royal Commission, or otherwise of satisfactory materials for the purpose."

This Amendment was agreed to by 246 to 226. It was then put as a substantive Motion and agreed to.

In August last the Government appointed a Royal Commission to inquire into the subject of trade disputes and trade combinations and as to the law affecting them, on Trade and to report on the law applicable to the same and the effect of any modifications thereof. That Royal Commission is now sitting, and the Executive Council ventured respectfully to submit that until the Report of that Royal Commission has been made, legislation on the subject should not be proceeded with.—I am, Sir,

Your obedient Servant,

THOS. RATCLIFFE ELLIS,

Law Clerk and Secretary.

Appendix.
—
17th Day.
No. 1—
continued.
Clause 3.

Appendix.
21st Day.
No. 1a.

TWENTY-FIRST DAY.

No. 1a.—NORTH-EAST COAST ENGINEERING TRADES EMPLOYERS' ASSOCIATION.

Synopsis of Demarcation Cases, October, 1903.

(*Handed in by Sir Andrew Noble on the 21st day. See Question 2411.*)

No.	Date.	Trades Concerned.	Dispute.	Arguments.		Settlement.
				Workmen.	Employer.	
1.	1890	Fitters v. Plumbers.	Regarding iron pipes.	A.S.E. argued that they were peculiarly fitted for working in iron and that, therefore, the work belonged to them. The Plumbers argued that they were pipe workers, and that, therefore, the work belonged to them.	The Employers argued that they ought to have the right to say who should do the work, since they paid the wages. They were not particular which class did the work, but they pointed out that when iron piping first came in the Fitters refused to do the work on the ground that it was Plumbers' work.	By conference of an equal number of representatives of Engineers, Plumbers and Employers, which drew up list of apportionment of work. The list was repudiated by the Engineers, who went on strike for three months; matter then referred to arbitration of Mr. Chitty.
2.	Nov. 1890	Blacksmiths v. Boilermakers.	Regarding ladders, platforms, handrails or welded rings, round ventilators (flat or square) claimed by blacksmiths; punching holes, shearing plates and welding angles, claimed by Boilermakers.	Smiths opened the question.	Matter left with firm and the local Association.	No settlement. Either trade was considered eligible, and the matter died out after a while. Certain hinges and fastenings for coverings to gratings over stokehold and hinges for doors in screen bulkheads were after this dispute made by Smiths only.
3.	Jan. 1891	Patternmakers v. Joiners.	Question of classifying work to be done respectively by these two trades in engine works.	The question was raised by both classes. Patternmakers began it.	Employers recommended both parties to meet and endeavour to settle their own disputes, and they further agreed to express their opinion upon any points where agreement was not possible.	The litigants held many meetings, and ultimately arranged the various points amongst themselves.
4.	Dec. 1891	A.S.E.	Manning of heavy planing machines, horizontal boring machines.	A.S.E. claimed that certain machines, then worked by apprentices, should be given over to their members.	Employers contended that they should have full liberty to say what class of workmen shall work the machines.	Nothing heard of question. Employers' position maintained.

					Employers' view enforced by Federation.
5.	May 1896	A.S.E. v. Machine-men.	The working of lathes and grinding gauges.	Work hitherto done by skilled mechanics. Cannot allow Employers' right to hand over sub-division of work which Society considers belongs to their trade. Claim that decision of Conference at Hull under Board of Trade gives them right to work certain machines.	Decline to admit right of Society to claim for their members exclusive right to work any particular class of machines. Machines are property of employers, they are responsible for work turned out, and they must continue to exercise their discretion in appointing men to work machines.
6.	Feb. 1897	A.S.E. v. Machine-men.	Working of boring machines.	Same as No. 5.	Same as No. 5.
7.	Sept. 1898	A.S.E. v. Sheet-iron Workers.	Small copper band in connection with railway water cranes fitted to join wrought-iron pipes.	Sheet-Iron Workers claim that they were not only Iron Workers but Sheet Metal Workers and could work either copper, iron or brass sheets. A.S.E. contended that the Clause in the Conditions of Management was intended to apply to machine tools, and has nothing whatever to do with Coppermiths or with questions of demarcation.	Conditions of Management. Firm contended this particular work had always previously been done by Sheet-Iron Workers.
8.	Feb. 1899	A.S.E. v. Machine-men.	Working of a capstan lathe.	Particular machines were worked by skilled men.	Conditions of Management.
9.	Nov. 1899	A.S.E. v. United Patternmakers.	Working of an iron turning lathe.	Particular machine should be worked by a member of the A.S.E.	Employers can only distinguish skilled men from others by their capacity to do the work entrusted to them; also Conditions of Management.
10.	June 1900	Boilermakers v. Fitters.	The water testing, etc., of Belleville boiler tubes.	Boilermakers claim work on the ground of an Award dividing this work, which Award, they contended, had been generally adopted throughout the country.	Custom already prevailing in the district. North-East Coast Employers' Association was not party to the Award, and, therefore, not bound by it.
11.	Oct. 1900	A.S.E. v. Labourers.	Respecting the working of pneumatic chipping tools.	Fitters did work by hand and contended they should do it by the tools.	Conditions of Management.
12.	Dec. 1900.	Boilermakers v. Labourers.	The working of a large fixed hydraulic riveting machine.	All riveting machines were worked exclusively by Boilermakers.	These machines had always been worked by a Labourer.
13.	Mar. 1901.	A.S.E. v. Machine-men.	Working of turret lathes.	This particular machine should be worked by Turners or at least Apprentice Turners.	Machines have always been worked by Machine Boys and Machinemen (on account of Factory Act not allowing boys to work through the night).

Appendix.
—
21st Day.
No. 1a—
continued.

No.	Date.	Trades Concerned.	Dispute.	Arguments.		Settlement.
				Workmen.	Employer.	
14.	July 1902.	A.S.E. v. Machinemen.	Fitting of blow-off valve and drain-pipes on boilers.	Purely Fitter's work.	Man complained of not a general Labourer, but had for many years been employed on the work in question. Conditions of Management.	Conditions of Management. Claim dropped.
15.	Sept. 1902.	Boilermakers v. Drillers.	Respecting the working of pneumatic drilling machines on boiler work.	Boilermakers contended that as they drilled the rivets out by hand previously they were entitled to drill them out by the machines. Society of opinion that their members could use the machines to the best advantage. Drillers contended that drilling out of rivets is purely their work and that it is the general practice throughout the country for Drillers to do the work, also that the Firm's previous custom has been for Drillers to do the work.	Firm do not consider it necessary on the introduction of the machines to employ a highly paid Boilermaker when an ordinary Driller is quite capable of doing the work. Common practice in repair work is for Drillers to drill out the hole and then for Boilermakers to knock out the rivet or stay and replace it with a new one.	Firm discontinued use of tools pending the question of machines in boiler-shops being dealt with by the Federation.
16.	Nov. 1902.	A.S.E. v. Plumbers.	Bending of steel pipes usually made of copper.	A.S.E. claimed it was Coppersmiths' work because the pipes were bent cold and the plant for doing the work was in the Coppersmiths' shop. The Plumbers claimed the work on account of the diameter of the pipes and also that List of Apportionment gave them the work.	Employers took up the position that this was a new material entirely and not covered by the List of Apportionment, and they therefore claimed the right to exercise their discretion as to who should do the work.	Decided by Employers' Association in favour of A.S.E.
17.	Dec. 1902.	Patternmakers v. Wood-turners.	Working of a wood-turning machine.	Patternmakers contended that at the end of a strike in May, 1893, against Wood-turners, the employers suggested that in the event of the man leaving his employment, or being discharged, his place should be filled by a Patternmaker, subject to the approval of the Tyne and Wear Employers.	Employers contended that they could find no record of such a suggestion.	The man in question died. The Association decided to recommend the Firm to agree to the request of the Society, but reserved to themselves the right to re-open the question at any time.
18.	Feb. 1903.	A.S.E. v. Boiler-makers.	As to chipping and fitting cast-iron doors on as producers.	A.S.E. claimed that doors are cast iron, that they are fitted with bolts, constituting it Fitters' work.	Employers claimed right to use their discretion to employ such class of workmen as they think most suitable for the work in question. This work is not exclusively Engineers' work and instance similar case of fitting furnace doors.	Design of work altered.

19.	Feb. 1903.	Plumbers v. Copper-smiths.	Respecting certain pipes.	Plumbers claim work on account of material used, even if iron is substituted for copper, as they have previously worked on the copper. Plumbers also claim pipes on account of size, above certain size they do not claim. Copper-smiths claim work on account of material used and on account of plant being in Copper-smiths' shop.	Employers reserve themselves the right to say who is to do the work, and in this particular case, the proper plant to do the work is in the Copper-smiths' shop.	Claim abandoned.
20.	Feb. 1903.	A.S.E. v. Plumbers.	Respecting work on copper pipes.	A.S.E. claimed that work was covered by List of Apportionment, also because the pipes were flanged.	Employers claim that as this question had not been settled by the List of Apportionment, the Employers reserve to themselves the right to decide what class of men should do the work.	Claim abandoned.
21.	Mar. 1903.	A.S.E. v. Labourers.	Working of vertical boring mill.	A.S.E. claimed that machines had to be worked by mechanic. They also alleged that the Federation had agreed to give Engineers a preference when introducing new machines.	Conditions of Management. Employers repudiated the statement of the A.S.E. in regard to the preference to be given to their members.	Claim abandoned.
22.	June 1903.	Boilermakers v. Non-Society Men.	Cleaving of boilers.	Boilermakers claimed work on the ground that the work had hitherto been done by them. Boilermakers also claimed that Sub-Contractor must employ similar class of men as has hitherto been employed by the Employer. Boilermakers do not press the foregoing principle to cases where the finished article is brought into the Employer's works, but they object to work with Sub-Contractors' men not members of the Boilermakers' Society who are engaged on work formerly done by their members.	The work in question had been given to a Sub-Contractor, and the Employers reserved themselves the liberty to contract out whenever they deemed it expedient.	Employers intimated that if the matter was pressed further by the Society it would have to go to the Engineering Employers' Federation.
23.	July 1903.	A.S.E. v. Brass-finishers.	Respecting screwing up valves, etc.	A.S.E. claimed valves over certain sizes.	Employers contended that it was the custom for Brassfinishers to do the work.	Question dropped.
24.	Aug. 1903.	Boilermakers v. Fitters.	Cleaving of cylinders with corrugated iron substituted in place of ordinary sheet iron.	Boilermakers claimed the work on account of their having previously done it when ordinary sheet iron was used.	Employers claimed the right of saying who should do the work in question. There was no uniformity of practice on the North-East Coast.	Question abandoned.

Appendix.
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21st Day.
No. 1a—
continued.

No.	Date.	Trades Concerned.	Dispute.	Arguments.		Settlement.
				Workmen.	Employer.	
14.	July 1902.	A.S.E. v. Machinemen.	Fitting of blow-off valve and drain-pipes on boilers.	Purely Fitter's work.	Man complained of not a general Labourer, but had for many years been employed on the work in question. Conditions of Management.	Conditions of Management. Claim dropped.
15.	Sept. 1902.	Boilermakers v. Drillers.	Respecting the working of pneumatic drilling machines on boiler work.	Boilermakers contended that as they drilled the rivets out by hand previously they were entitled to drill them out by the machines. Society of opinion that their members could use the machines to the best advantage. Drillers contended that drilling out of rivets is purely their work and that it is the general practice throughout the country for Drillers to do the work, also that the Firm's previous custom has been for Drillers to do the work.	Firm do not consider it necessary on the introduction of the machines to employ a highly paid Boilermaker when an ordinary Driller is quite capable of doing the work. Common practice in repair work is for Drillers to drill out the hole and then for Boilermakers to knock out the rivet or stay and replace it with a new one.	Firm discontinued use of tools pending the question of machines in boiler-shops being dealt with by the Federation.
16.	Nov. 1902.	A.S.E. v. Plumbers.	Bending of steel pipes usually made of copper.	A.S.E. claimed it was Coppermiths' work because the pipes were bent cold and the plant for doing the work was in the Coppermiths' shop. The Plumbers claimed the work on account of the diameter of the pipes and also that List of Apportionment gave them the work.	Employers took up the position that this was a new material entirely and not covered by the List of Apportionment, and they therefore claimed the right to exercise their discretion as to who should do the work.	Decided by Employers' Association in favour of A.S.E.
17.	Dec. 1902.	Patternmakers v. Wood-turners.	Working of a wood-turning machine.	Patternmakers contended that at the end of a strike in May, 1893, against Wood-turners, the employers suggested that in the event of the man leaving his employment, or being discharged, his place should be filled by a Patternmaker, subject to the approval of the Tyne and Wear Employers.	Employers contended that they could find no record of such a suggestion.	The man in question died. The Association decided to recommend the Firm to agree to the request of the Society, but reserved to themselves the right to re-open the question at any time.
18.	Feb. 1903.	A.S.E. v. Boiler-makers.	As to chipping and fitting cast-iron doors on as producers.	A.S.E. claimed that doors are cast iron, that they are fitted with bolts, constituting it Fitters' work.	Employers claimed right to use their discretion to employ such class of workmen as they think most suitable for the work in question. This work is not exclusively Engineers' work and instance similar case of fitting furnace doors.	Design of work altered.

Appendix.

21st Day.
No. 1a—
continued.

19.	Feb. 1903.	Plumbers v. Copper-smiths.	Respecting certain pipes.	Plumbers claim work on account of material used, even if iron is substituted for copper, as they have previously worked on the copper. Plumbers also claim pipes on account of size, above certain size they do not claim. Copper-smiths claim work on account of material used and on account of plant being in Copper-smiths' shop.	Employers reserve themselves the right to say who is to do the work, and in this particular case the proper plant to do the work is in the Copper-smiths' shop.	Claim abandoned.
20.	Feb. 1903.	A.S.E. v. Plumbers.	Respecting work on copper pipes.	A.S.E. claimed that work was covered by List of Apportionment, also because the pipes were flanged.	Employers claim that as this question had not been settled by the List of Apportionment, the Employers reserve to themselves the right to decide what class of men should do the work.	Claim abandoned.
21.	Mar. 1903.	A.S.E. v. Labourers.	Working of vertical boring mill.	A.S.E. claimed that machines had to be worked by mechanic. They also alleged that the Federation had agreed to give Engineers a preference when introducing new machines.	Conditions of Management. Employers repudiated the statement of the A.S.E. in regard to the preference to be given to their members.	Claim abandoned.
22.	June 1903.	Boilermakers v. Non-Society Men.	Cleaving of boilers.	Boilermakers claimed work on the ground that the work had hitherto been done by them. Boilermakers also claimed that Sub-Contractor must employ similar class of men as has hitherto been employed by the Employer. Boilermakers do not press the foregoing principle to cases where the finished article is brought into the Employer's works, but they object to work with Sub-Contractors' men not members of the Boilermakers' Society who are engaged on work formerly done by their members.	The work in question had been given to a Sub-Contractor, and the Employers reserved themselves the liberty to contract out whenever they deemed it expedient.	Employers intimated that if the matter was pressed further by the Society it would have to go to the Engineering Employers' Federation.
23.	July 1903.	A.S.E. v. Brass-finishers.	Respecting screwing up valves, etc.	A.S.E. claimed valves over certain sizes.	Employers contended that it was the custom for Brassfinishers to do the work.	Question dropped.
24.	Aug. 1903.	Boilermakers v. Fitters.	Cleaving of cylinders with corrugated iron substituted in place of ordinary sheet iron.	Boilermakers claimed the work on account of their having previously done it when ordinary sheet iron was used.	Employers claimed the right of saying who should do the work in question. There was no uniformity of practice on the North-East Coast.	Question abandoned.

SIXTEENTH TO THE TWENTY-SIXTH DAY.

EMPLOYERS' ASSOCIATIONS.

SELECTED INSTANCES OF RULES PROVIDING FOR COMBINED ACTION IN THE
EVENT OF STRIKES, ETC.

1.—EXTRACTS from the RULES of the NORTHUMBERLAND COALOWNERS' ASSOCIATION.

*As Amended to March, 1902.**(Sent in by Mr. R. Guthrie. See Questions 1406 to 1568.)**Purpose.*

1. The purposes and objects of the Association are the regulation of all matters connected with wages of workmen, either by the Members themselves or by any Board of Conciliation or any Joint Committee of Owners and workmen, and the protection of the Members against losses arising from strikes, and restrictive action of, or disputes with, their workmen, and the regulating or dealing with any other matters which affect the general interests of the Coal Trade of the County of Northumberland.

Disputes and Strikes.

40.—So soon as a dispute arises at any colliery, causing or likely to cause a claim on the Association, the Owner of such colliery or his agent must at once communicate with the Secretary of the Association, whose duty it shall be forthwith to summon a General Meeting, who shall examine and investigate the circumstances, and determine whether such colliery shall be taken under the protection of the Association or not.

41.—So long as the Owner of the colliery on strike conforms strictly to the instructions of the General Meeting, he shall continue to be under the protection of the Association.

Compensation.

44.—The Owners of any Colliery which shall be required by the Association to resist unjustifiable demands of the workmen, and thereby be put upon strike, shall be indemnified by the Association for all expenses arising out of or incurred during the period of such strike and all losses of profit incurred during the period of such strike, the same to be ascertained and awarded by two independent Viewers, Members of the Association, as Arbitrators (one to be appointed by the Association, and the other by the Owners of the Colliery on strike), or, in case they differ, by an Umpire to be appointed by the Arbitrators before they enter upon the reference.

All claims shall, so far as the circumstances of each case will permit, be framed in a uniform method, and every claim, before being submitted to the Arbitrators or Umpire, shall be examined by the Accountants of the Association, who shall report in writing to the Arbitrators whether the form of the claim is correct, and if not, then in what respects it ought to be amended, and the Owners shall afford to the Accountants all reasonable facilities for examining and verifying the claim.

45.—No claim for compensation shall be allowed for less than three consecutive days, during which the working of the colliery is interrupted by a strike of the whole or any portion of the men or boys, except such interruption be caused by Union and Non-Union men refusing to ascend or descend the shaft together, when compensation may be claimed for each day the pit is off work; if, however, a three days' stoppage occurs at one pit, and less than three days at another (the property of the same Owner or Owners) from the same cause, the Owners shall have compensation for all the loss of work due to the one cause, whether it takes place at one or more pits.

Obligations of Members towards each other.

50.—No Member of the Association shall remove, or cause to be removed, any workman of any description, or the goods of any such workmen, from any colliery, the Owner of which is a Member of this Association;

Or pay or make any compensation for such removal;

Or pay any earnest money to such workman;

Or hold out any inducement to such workman beyond the ordinary remuneration of workmen at such colliery.

51.—No Member of the Association shall make any alteration in the ascertained County Rate of Wages that he shall pay to his workmen, or the hours of working at his colliery, without the sanction of the Association or of the Joint Committee, or refuse to concur in any general alteration of wages or hours of labour resolved on by the Association in General Meeting or determined by any decision of any such Board of Conciliation as aforesaid, but nothing in this rule shall be deemed to render it obligatory on any Member to continue to work his colliery at any time before or after such general alteration.

General Regulations.

52. Any Member of this Association acting, either by himself or his agent, in contravention of any of these Rules, shall, at the discretion of a General Meeting, be liable to pay a sum not exceeding One Hundred Pounds; and, in the case of a continued contravention, to pay such further sum not exceeding Fifty Pounds for every day during which such contravention shall continue as may be determined at such meeting, and such payments respectively shall be recoverable by the Chairman for the time being on behalf of the Association as a liquidated and agreed debt due from the offending Member to the Association, and all privileges of Membership shall cease.

53.—In the event of a general strike or lock-out taking place, each Member shall from the date thereof pay all his own expenses, and no claim shall be made on the Association for such expenses.

Definitions.

54.—The following words shall have the following meanings whenever they are used in these Rules, unless the context shall exclude such meanings, that is to say: the word "Colliery" shall include a colliery and coke-ovens. The word "Workmen" shall include all persons employed in, at, or about a colliery as above defined. The word "Strike" shall include and mean any cessation or organised restriction of working at a colliery, or reduction of the output of any colliery arising out of any termination of their hiring or refusal to work by or dispute with the whole or any portion of the workmen employed at such colliery. The word "Lock-out" shall mean a general cessation of work at a colliery, as above defined, caused by the Owner of such colliery terminating the engagement of the workmen employed thereat. The word "Member" shall include any individual, or firm, or company, and shall apply to and include any person for the time being nominated as the representative of any subscribing individual, firm, or company, and words applicable to individuals shall apply to firms and companies, or *vice versa*.

2.—EXTRACTS from the RULES of the DURHAM COALOWNERS' ASSOCIATION.

Passed November 14th, 1879.—Revised to December 21st, 1896.

(Sent in by Mr. R. Guthrie. See Questions 1406 to 1568.)

1.—The purposes and objects of this Association are the regulation of all matters connected with wages of workmen, and the protection of the Members against losses arising from strikes, and restrictive action of, or disputes with, their workmen.

21.—It shall be the duty of the Urgency Committee to take instant cognizance of all circumstances likely to produce a strike, or cessation, or restriction of work, or any dispute at any particular colliery or group of collieries, and to determine whether such colliery or collieries shall be taken under protection of the Association or not, and advise and confer with the Owners and managers thereof, and if necessary authorise one or more Members of the Association, as their representatives, to examine into and report on the same. It shall also be one of the duties of the Urgency Committee to pass in review from time to time the minutes of the various Joint Committees, and to call attention to any want of uniformity in the character of the decisions.

55.—So soon as a dispute arises at any colliery, causing or likely to cause a claim on the Association, the Owner of such colliery or his agent must at once communicate with the Secretary of the Association, whose duty it shall be forthwith to summon the Urgency Committee, who shall examine and investigate the circumstances, and determine whether such colliery shall be taken under the protection of the Association or not, and report to the next General Meeting.

56.—So long as the Owner of the colliery on strike conforms strictly to the instructions of the Urgency Committee, he shall continue to be under the protection of the Association.

57.—On any colliery coming under the protection of the Association, the Urgency Committee shall appoint three representatives to settle the matter in dispute on behalf of the Association, one of such three persons to be a member of the Finance Committee.

58.—It shall be the duty of the three representatives so appointed, not only to advise on the subject-matter of dispute, but to ensure the observance of their advice, and see that the arrangements made by the Owner of the colliery are such as to diminish as far as possible any money claim on the Association.

61.—The Finance Committee shall thereupon report to the next ensuing General Meeting the number of tons that would have been wrought but for the strike, and the amount of assurance effected by the Owner of the colliery, and such General Meeting shall order payment to the Owner of the amount represented by the decrease in tonnage multiplied by the rate per ton at which the colliery is assured.

62.—No claim for assurance or expenses shall be allowed for less than five consecutive full day's cessation of work, except such cessation be caused by Union and Non-Union men refusing to ascend or descend the shaft together, when compensation may be claimed for each day the pit is off work.*

68.—No Member of this Association shall remove, or cause to be removed, any workman, of any description, or the goods of any such workman, from any colliery, the Owner of which is a Member of this Association;

Or pay or make any compensation for such removal;

Or pay any earnest money to such workman;

Or hold out any inducement to such workman beyond the ordinary remuneration of workmen at such colliery.

69.—No Member of the Association shall make any alteration in the wages paid to his workmen, or the hours of working at his colliery, without the sanction of the Association or of the Joint Committee.*

70.—Any Member of this Association acting, either by himself or his agent, in contravention of any of these Rules shall, at the discretion of a General Meeting, be liable to pay a sum not exceeding One Hundred Pounds; and, in the case of a continued contravention, to pay such further sum not exceeding Fifty Pounds for every day during which such contravention shall continue as may be determined at such Meeting, and such payments respectively shall be considered and recoverable by the President for the time being on behalf of the Association, as a liquidation and agreed debt due from the offending Member to the Association, and all privileges of Membership shall cease.

71.—If, in consequence of the Association having refused, to accede to the demands of the workmen, it should be decided to allow a general strike to take place, each Member shall from the date of the strike pay all his own expenses, and no claim shall be made on the funds of the Association for such expenses.

72.—Neither a lock-out shall be determined upon, nor a general strike allowed to take place, unless at a General Meeting specially summoned, according to Rule 8, at least three-fourths of the Members present and voting shall be in favour thereof; otherwise arbitration shall be offered to the men. In the event of a lock-out or a general strike taking place, each Member shall from the date thereof pay all his own expenses, and no claim shall be made on the Association for such expenses.

73.—The following words shall have the following meanings whenever they are used in these Rules, unless the context shall exclude such meanings, that is to say: the word "Colliery" shall include a colliery, coke-ovens, and fire-brick works, or any of them. The word "Workmen" shall include all persons employed in, at, or about a colliery as above defined. The word "Strike" shall include and mean any cessation or restriction of working, or hours of working at, or the output of any colliery as above defined, imposed, or caused by the workmen, or a majority of them employed at such colliery. The word "Lock-out" shall mean a general cessation of work at a colliery, as above defined, caused by the Owner of such colliery terminating the engagement of the workmen employed thereat. The word "Firm" shall include body corporate.

* General Meeting, 22nd Sept., 1888.—The following report from the Finance Committee was adopted:—"It having been referred to the Finance Committee to consider the question whether pits are assured separately or all pits of the same Owners are included in one assurance, the Committee are of opinion that the pits are assured separately, some Owners assuring at different rates for their different pits. The Committee are, however, of opinion that if a five days' stoppage occurs at one pit, and less than five days at another, from the same cause, and due to the action of the Federation Board, that the Owners should have compensation for all the loss of work due to the one cause whether it takes place at one or more pits."

* General Meeting, June 5th, 1880.—Consideration of the best means of carrying out the provisions contained in Rule 69.

Any Colliery Owner desiring to have the sanction of the Association to any alteration of the wages or hours of work at his colliery which has the sanction of the workmen employed, shall send to the Secretary of the Association a written statement of the changes proposed to be made giving the average earnings of the previous three years, the amount of advance or reduction contemplated, and the number of men affected by such change, and such particulars, and proposed change shall be considered and approved by the District Committee before being sent to the Joint Committee for confirmation.

Appendix.

1.—From the DEED of ARRANGEMENT with AMENDMENTS of the MONMOUTHSHIRE & SOUTH WALES COAL OWNERS' ASSOCIATION.

18th to 28th
Day.
No. 1.

(Handed in by Mr. Charles Kenshole on the Eighteenth Day. See Question 1792).

Strike and
Stoppage.

11.—THE term "Strike" shall include an organised limitation of output at a Colliery by workmen employed thereat.

Stoppage.

12.—THE term "Stoppage" shall include any cessation of output at a Colliery by direction of the Association.

Consequence
of misconduct
by a Member.

29.—A MEMBER who shall not abide by the provisions of this Deed or who shall not act in accordance with and abide by any resolution, direction or request of the Association, or of any Board, or who shall agree to make any change in the Scale or Rate of Wages without the authority of the Association or a Board, shall not be entitled to any of the rights or benefits under Clauses 30, 80, 81, 82, 83, 84, 87, 88 and 101 of this Deed.

Power of
Boards.

41.—EACH Board shall have the conduct of all the duties of the Association in its District, but shall not have power to authorise any general change in the rate of wages payable at a Colliery, or to sanction any concession in the terms of the labour contracts occasioning a general change in the rate of wages, or any general advantage to Workmen in the District, or to direct the stoppage of a Colliery.

Power to
Modify wages.

42.—NOTWITHSTANDING the provisions of Clause 41, a Board may, by order in writing, permit a temporary allowance to be made to Workmen in respect of any unusual condition of a seam of coal or of the working places therein, or of any exceptional condition affecting the working of a Colliery, and as, under the circumstances, may be necessary to meet the exceptional state of things.

Special
Meeting to
consider
Stoppage.
Majority
necessary.

59.—SEVEN clear days' notice shall be given of a Special Meeting for considering a Stoppage of a Colliery, or the termination or qualification of a stoppage.

60.—ANY resolution of the Association directing a Stoppage of all Collieries in a District, and any resolution to terminate or qualify such a Stoppage, shall be carried by the votes of at least three-fourths of the Members present at the Special Meeting convened for the purpose, and representing at least three-fourths of the votes of all the Members of the Association.

Regulating
action of
Members as
to Wages.

77.—NO advance in the rate of wages payable to Workmen, or concession or variation in the terms of their contracts, occasioning any additional payment to them or an advantage in the rate of their wages, shall be made or agreed to be made, without the previous consent of the Association or of the Board, in accordance with Clause 42. Provided that the preceding provision shall not prevent a temporary allowance being made to Workmen in respect of any unusual condition of a seam, as under the circumstances may be reasonable to meet the exceptional state of things; but that such allowance shall not be made with the intention of making any advance in the general rate of wages payable to any class of workmen.

General
Strike.

78.—IN the event of a Strike at a Colliery, the same shall be immediately reported by the Member to the Secretary of the Board and to the Secretary of the Association. If the Board shall not be able to terminate the same within three days after the notification thereof to them, the fact shall be notified to the Secretary of the Association.

New Clause inserted, see Clause 4 of the Appendix.

Differences
with
Workmen.

79.—IF a Member receives notice simultaneously from one-half of any section of his Workmen, or from twenty or more of them, or if any difference arises between a Member and his Workmen, or any part of them, he shall give notice thereof to the Secretary of the Board, who shall convene a Special Meeting of the Board or of its Committee, to decide upon the course to be pursued. If the Meeting is unable to dispose of the matter, or if the same involves any change in the rate of wages payable to the Workmen, or any concession to them, or a

variation in the terms of their contracts likely to occasion an additional payment to them, or an advantage in the rate of their wages, or requires that any special arrangement should be made other than is provided in Clause 42, the Meeting shall thereupon refer the matter to the Association, and require the Secretary to convene a Special Meeting to consider the question.

See Clause 3 of Appendix.

80.—IN case of a Strike on the part of the Workmen, Indemnity, or any number of them, before, or in consequence of the decision of the Board, or of the Association, and if the action of the Member in reference to such Strike shall be ratified by the Association, or in case of a restriction or cessation of output at a Colliery in consequence of the Member acting in compliance with some direction of the Association, the following provisions shall apply.

81.—A MEMBER shall be paid an indemnity on Indemnity any deficiency of actual daily output up to and not on Daily in excess of the tonnage assured, to be calculated upon Output. an average of the actual output per day during the three calendar months ending on the Saturday preceding the cessation or restriction of output, as adopted by the Association, such daily average quantity to be ascertained by dividing the quantity raised in three months by 75.

84.—AFTER a Member has become entitled to indemnity, he shall continue to be entitled thereto until the Strike or Stoppage shall cease, or until some further direction in reference to the matter shall be given by the Association. Continuation of Indemnity

85.—IF any Strike or difference at a Colliery shall occur, and the Association shall direct that some concession shall be made to the Workmen by the Member, and he shall not within four clear days after receiving such direction, act in accordance therewith, he shall not be entitled to any Indemnity during the continuance of a strike after such four days. Order by Association to make concession.

87.—In case of a Strike at or Stoppage of all the Col. Indemnity to leries of the Association, any Indemnity at that time payable to a member shall cease, and in that case he shall receive in common with all other members, the benefits expressed in Clause 88. cease on Stoppage.

88.—In case of a general Strike or Stoppage at all the Collieries in the Association, the whole or any portion of the Funds of the Association shall, subject to Clauses 29 and 60, be made available for the assistance of the Members in such manner as the Association shall determine by a resolution to that effect, previously passed at a meeting specially called for the purpose of considering the subject; but in the proportions and upon the principle as regulated by Clause 81, and the monthly subscriptions shall for the time being cease. General Strike or Stoppage.

89.—IF at a Meeting of the Association convened under Clauses 58 and 59 a resolution shall be passed in accordance with Clause 60 involving a Stoppage, the Association may direct that notice shall be given by the Owner terminating the contracts with his Workmen And such Stoppage shall continue until the Association shall otherwise decide, and be subject in every respect to its discretion and decision at any Special Meeting convened for dealing with the matter. Notice to terminate Contracts.

90.—WHILE a Strike is threatened or pending under Clause 79 of this Deed, and during a Strike or a Stoppage at a Colliery, no Workman who has been employed at a Colliery shall be hired at any other Colliery without producing his discharge or his last pay ticket from his last employment; and it shall be a condition in engaging him that his last discharge or pay ticket shall be given up by him to his new employer, who shall thereupon file and keep it, and hand it over to the Secretary when required. Discharge Notes.

Restriction of Employment. 91.—NO Workmen employed at a Colliery immediately before a Strike or Stoppage thereat takes place, shall during such Strike or Stoppage be employed by any Member.

Form of Discharge Note. 92.—EACH Workman who leaves his employment at a Colliery upon the termination of his contract shall, while the provisions of the 90th Clause are in operation, receive a discharge in the following words, signed by the employer or someone on his behalf:—

Colliery.

A B has this day been discharged from this Colliery, having fulfilled his contract.

Dated the day of 189 :

APPENDIX.

The following additional provisions to, and modifications of, the Association Deed, 1890, have been adopted at Special Meetings of the Association held in accordance with Clause 100 of the Deed.

Clause 1.—Modification of Clause 58 of Deed.

Modification of Clause 58 of Association Deed. A resolution of the Association affecting all the Collieries in the Association or in a district or sanctioning at the request of the Member the stoppage of a Colliery shall only be passed at a Special Meeting convened for the purpose by direction of the Association at a previous Meeting.

Clause 2.—To follow Clause 58 of Deed.

Permitting a Member stopping a Colliery under certain conditions. 58A.—In case of a Dispute at any Colliery or Collieries of a Member, and any of the Workmen thereat shall have given notice to terminate or have terminated Contracts, or shall have come out on strike, the Member may, notwithstanding the provisions of Clause 58 of the Association Deed, with the sanction of the Association by resolution passed at a Special Meeting convened for the purpose under Clause 55 of the Association Deed, give notice to all or any of the other Workmen employed by the Member, whether at the same or other Collieries owned by the Member, and terminate their contracts, and the Member shall for the stoppage caused by the notices given by the Member, be entitled to be indemnified against the cost of maintenance of the Colliery or Collieries where such stoppage occurs, but not exceeding 1s. 3d. per ton upon the daily output lost by such stoppage to be ascertained in manner referred to in Clause 81 of the Association Deed. The Member shall, however, be paid the full rate of indemnity under Clause 82 of the Association Deed, as modified by resolution of the Association, for the stoppage caused by the notices given by the Workmen.

Clause 3.—To follow Clause 58A of Deed.

58B.—Should any Member receive notices from his Workmen terminating Contracts and desire as the results of such notices to stop his Colliery beyond the period at which the Workmen express a desire to return to work he shall give notice thereof to the Secretary of the Board who shall convene a Special Meeting of the Board (or of its Committee) under Clause 79 and the Board upon consideration of the whole of the circumstances and if satisfied that such notices have been given on the Non-Unionist question may subject to ratification by the Association indemnify such Member against the loss sustained in consequence of such stoppages, but such indemnity shall be limited to a period of 14 days beyond such time as the Workmen desire to return unless the stoppage of the Colliery beyond that period is due to the refusal of the Workmen to return to work, the rate of indemnity to be in accordance with the provisions of Clause 81 and Clause 82 as modified of the Association Deed.

Clause 4.—To follow Clause 78 of Deed.

78A.—Where workmen collectively or any section of workmen commit a breach of Contract by abstaining from work it shall be obligatory upon the Member employing such workmen to take proceedings for the recovery of damages for such breach against such workmen or against such of them as may be advised by the Solicitor to the Association after consultation with the Member and the adoption of this course shall be a condition precedent to the Member being entitled to indemnity from the Association for such breach of contract.

Any damages and costs awarded by the Court against such workmen shall be set off against the wages due at the time to such workmen and in the event of the unpaid wages not amounting to the amount of such damages and costs then the balance of such damages and costs shall be set off against subsequent pays if possible or failing that shall be recovered by such other means as may be advised.

All proceedings against such workmen shall be conducted by the Solicitor to the Association and at the expense of the Association.

Upon judgment being awarded against the workmen who have been proceeded against the remaining workmen (if all of them shall not have been proceeded against in the first instance) shall if the Member be so advised by the Solicitor to the Association be given the option of paying a similar amount of damages (exclusive of costs) or if they decline this then such workmen shall be proceeded against in a similar manner to the other workmen.

In any claim for indemnity sent in by the Member to the Association in respect of such illegal stoppage credit shall be given by such Member for the damages recovered and paid to such Member.

Appendix.

18th to 26th Day. No. 1. continued.

Where Notices given by Workmen on Non-Unionist question and Member desires to stop Colliery.

Proceedings against Workmen for Breaches of Contract.

1.—GENERAL RULES AS AGREED BETWEEN THE NATIONAL FEDERATION OF BUILDING TRADE EMPLOYERS OF GREAT BRITAIN AND IRELAND, THE NATIONAL ASSOCIATION OF MASTER PLASTERERS, AND THE NATIONAL ASSOCIATION OF OPERATIVE PLASTERERS, APRIL 12th, 1904.

(Sent in by Mr. William Shepherd. (See Questions 1942 to 2023.)

1.—The National Association of Operative Plasterers will not take any steps to compel men regularly employed as Foremen or Superintendents of Plasterers to become Members of the N.A.O.P., and the Employers will not take any steps to compel any men to cease their membership of, or prevent them joining the Operatives' Society.

2.—No Employer shall engage any additional Apprentices to the Plastering Trade whilst the number of his Apprentices shall exceed one fourth of the number of Journeymen Plasterers then employed by him. All Apprentices shall be legally bound, the Indentures to be open for inspection of the Operative Society within three months of the employment of the said Apprentices.

3.—No boycotting or blacklisting shall take place by the N.A.O.P. in future, where the firms adhere to the

Rules mutually agreed upon, and should any firm be engaged to do any portion of Plastering Work, and do not pay the recognised rate of wages, it shall not be considered a violation of this Agreement, should the N.A.O.P. enter a protest. The employers agree that such Rules shall be strictly enforced in all parts of their Contracts.

4.—For the purpose of demarcation of work Joint Committees shall be established in the different Districts, equally representative of the Employers and the Mechanics, whose representation shall be equally divided amongst the different branches of the trade in question. These Committees shall, as far, and as soon as is possible, draw up schedules of the work which it is recognised belong to certain branches of the trade. To such Committees shall be immediately referred all points of dispute as to demar-

Appendix.

18th to 26th Day. No. 1.

cation, and the decision of the majority in each case shall be accepted as binding on both sides. Should they fail, however, to decide, then the matter shall be referred for settlement to a similarly constituted Joint Committee, representative of the National Federation of Builders and the other Societies affected, whose decision shall be final, provided that the Employers' representatives are bona-fide Employers of Plasterers direct. Pending such reference to the Local Committees, no strike or lock-out shall take place, but the decision of the Employer shall be provisionally accepted as to who shall do the work, provided that preference shall be given to that branch of the trade which, in practice, has done the work before in that district, and provided that no preference be given on account of the payment of lower wages.

5.—In the event of any dispute arising on any Job or Works, the District Officials of the N.A.O.P. shall send written notice to the Local Associations of Master Builders and Master Plasterers, who shall inform them whether the said Employer is a member of either of those bodies, if so a strike shall not be sanctioned by the N.A.O.P. until six clear working days have expired from the receipt of such notice, during which time the matter shall be considered by a Joint Committee of Employers of Plasterers, and Members of the Operatives' Union (such Committee to be elected annually) with a view to an amicable settlement; failing a local settlement reference shall immediately be made to a standing Joint Committee, consisting of members of the Employers' and Operatives' Central Bodies, and until they have met, and discussed the grievance no strike or lock-out shall be sanctioned either by the N.A.O.P. or by the Employers' Association.

With regard to the alleged refusal of members of the N.A.O.P. to work with workmen who may not belong to a Trade Union, it is understood the men the Operative Plasterers object to work with are defaulters, and other men, who have been shown to the Employers to have made themselves specially objectionable to the Union Men.

6.—No Employer shall be called upon to pay more than the local standard rate of wages to men engaged in a town or district where the work is being executed, and where no established rate exists, that of the nearest town or district shall be adopted.

7.—These Rules shall be construed together, and in the light of each other.

NOTE.—The words "local standard rate" and "established rate" in Rule 6 shall mean "the current rate that is being paid by established custom in the locality."

Signed—

W. H. JESSOP, *President,*

J. ALFRED S. HASSAL, *Secretary,*

On behalf of the National Federation of Building Trade Employers of Great Britain and Ireland.

WILLIAM SMITHIES, *President,*

On behalf of the National Association of Master Plasterers.

Signed—

MARK JONES,

DAVID HENNESSEY,

M. DELLER, *General Secretary,*

On behalf of the National Association of Operative Plasterers.

1.—EXTRACTS from the REVISED RULES of the LANCASHIRE, CHESHIRE AND NORTH WALES BUILDING TRADES EMPLOYERS' FEDERATION.

Adopted December 16th, 1903, and further amended, June 20th, 1904.

(Sent in by Mr. Alexander G. White. See Question 2033.)

20. In cases of strikes, lock-outs or disputes, the Executive Board shall have power to impose a levy upon the Affiliated Associations, such levy to be based upon a percentage of their Annual Subscription, but no levy shall exceed the total amount of one year's annual subscription without the consent of a Special General Meeting.

22. Any Affiliated Association or Individual Member shall be entitled to bring before the Executive Board any question falling within the objects of the Federation.

23. No Affiliated Association must adopt Trade Rules with the Operatives, embodying fresh restrictions on Trade, without first obtaining the approval of the Executive or Emergency Committee of the Federation, and no Affiliated Association must advance the wages of Operatives in any branch of the Building Trade above the maximum rate of the Federated Towns without the consent of the Executive Board. All demands, strikes, and disputes of whatever nature, embraced within the scope of the Federation, shall be reported to the Secretary of the Federation and by him to all the Federated Associations and Individual Members. The Secretaries of the Local Associations shall regularly communicate to the Federation Secretary all matters of trade interest in their respective districts, and he shall duly notify such matters to the other Local Secretaries.

It shall be the duty of each Local Association to forward to the General Secretary, not later than May 31st in each year, a full list of Members, with their occupations and addresses, and a copy of every code of rules adopted in agreement with the Operatives, and of every alteration or amendment made thereto. Each Local Secretary must also forward as early as possible to the General

Secretary a copy of any notice received from the Operatives for any alterations in rates of wages or working rules, and must supply him with all the information he may from time to time require.

24. No Member shall employ any workman or boy out on strike or locked out from the workshop of any Member during the continuance of such strike or lock-out.

The Executive Committee to have power to send appointed agents to inspect the books and visit the works of any Member, during a dispute, as to the names of men employed, and if they find any strike hands employed, to request such Member to comply with this Rule and take the necessary steps to enforce it.

25. In the case of a dispute which cannot be settled by the Local Association, the Executive Board shall decide what support (if any) shall be given, but no general lock-out shall be ordered nor shall any action be taken which may involve a general strike until the whole of the Members of the Federation have been consulted. In all such cases a ballot of Members shall be taken in the manner prescribed in the rules of the Northern Centre of the National Federation, and the majority necessary to carry the proposal shall be two-thirds of the votes recorded. If the said lock-out or strike affects a branch trade only, two votes shall be taken :—

(1) Of the Members directly affected.

(2) Of the whole of the Members for or against a general lock-out of the branch trade, and for or against a general lock-out in support of the branch trade within a given time, should such a course be deemed necessary.

Should the vote be in favour of a lock-out of the branch trade, but against a general lock-out in support, the Members directly affected shall have an opportunity of re-considering the matter before lock-out notices are posted.

At the termination of any general strike or lock-out, the terms of settlement shall be submitted to a vote of

all the Members as before described, and if approved, then each employer or local association affected shall have the full support of the Federation to obtain from the operatives the full terms of the settlement. This rule shall apply to matters affecting this Federation only. Any matter affecting a wider area shall be governed by the rules of the National Federation on the subject.

2.—EXTRACTS from the REVISED RULES of the PRESTON BUILDING TRADES EMPLOYERS' ASSOCIATION.

Adopted October 7th, 1903.

(Sent in by Mr. Alexander G. White. See Question 2033.)

RULE 10.—RESPECTING DISPUTES.

The principle of the Association being conciliatory to the operatives, it shall, in cases of disputes with them, do its utmost, by arbitration or otherwise, to avoid strikes and lock-outs; but if the operatives strike or threaten to strike and refuse any equitable settlement of a dispute, then all the Members of the Association shall, on application by the Secretary, make a return to him of the number of operatives in their employ respectively upon a given day which shall be named by the Committee. Then a Special General Meeting of the Association shall be convened to decide in what manner the matters in dispute shall be dealt with.

RULE 15.—NEGOTIATIONS WITH THE OPERATIVES.

That Members of this Association shall not negotiate or attempt to negotiate with any Association of the operatives upon any subject affecting the trade generally, but all communication with such Associations shall be made through the Secretary, under the direction of the Committee.

RULE 17.—CONDITIONS OF CONTRACT AND QUANTITIES.

(A). The printed conditions of contract approved and adopted by the Lancashire, Cheshire, and North Wales Federation shall be adopted by this Association, to be used in the Building Trade in Preston, and no Member must sign any other conditions.

(B). No Member must give tenders in competition for work where plans are supplied, unless quantities are given, except in the case of cottages to let at 6s. a week and under, including rates. Tenders may also be given without quantities for alterations and other small jobs where the total cost of all branches of the Trade does not exceed £220.

(C). Any Member asked to tender without quantities contrary to this rule must give notice to the Secretary at once.

RULE 18.—NON-MEMBERS.

(A). That we, the Members of the Preston Building Trades Employers' Association, hereby mutually agree not to give or take tenders to or from, or otherwise employ or deal with regular employers in the Building

Trades of this district, who are not Members of this Association, or with a regular employer of any other district where there is a Federated Association, if he does not belong thereto.

(B). We also agree when placing an order for building materials in this district to do so with a dealer or manufacturer who is a Member of this Association, if practicable, and will in all cases give such Members a reasonable preference. Should it become necessary to place an order for materials with a non-Member either of this or any other district, we will use all reasonable efforts to induce the firm to join this or some Federated Association.

RULE 19.—DAY-WORK PRICES.

Each and every branch of the Building Trade shall fix a rate of prices for day-work; and every Member of this Association shall strictly adhere to the prices agreed upon when making out his day-work accounts, and shall not allow a discount exceeding 2½ per cent off such accounts.

RULE 21.—APPRENTICES.

No Member of this Association shall be allowed to take on an apprentice who has left the employment of another Member without previously obtaining his former employer's consent in writing.

RULE 22.—INFRINGEMENT OF RULES.

(A). Any Member of this Association found infringing any of these rules shall, upon receiving not less than two clear days' notice in writing from the Secretary respecting such infringement, appear before the Committee and give an explanation of his conduct in respect to such violation of the rules; and should his explanation be deemed unsatisfactory the Committee shall be empowered to fine or otherwise deal with him as they think proper, subject to his right to appeal to a General Meeting if he considers he has been unjustly dealt with.

(B). But should any Member refuse to pay a fine, or disobey in any other way the directions of the Committee, they may then report him to a General Meeting of the Association, when he may be expelled by a majority of votes of those present if due notice of proceedings under this Rule has been given on the circular calling the Meeting.

Appendix. 1.—From the CONSTITUTION and CONDITIONS of the ENGINEERING EMPLOYERS' FEDERATION.

18th to 26th
Day.
Nos. 1 and 2.

(Sent in by Sir Andrew Noble. See Question 2434.)

Name. 1. The name shall be "THE ENGINEERING EMPLOYERS' FEDERATION."

General Questions arising in Districts.

Objects. 2. The objects shall be—

(1.) To promote and further the interests of the Federation, of the Federated Associations, and of the Members of such Associations generally; and, in particular, to protect and defend those interests against combinations of workmen seeking by strikes or other action to impose unduly restrictive conditions upon any branch of the Engineering Trades;

(2.) To secure mutual support and co-operation (a) in dealing with demands made, and action taken by, workmen or combinations thereof, on all matters or questions affecting the general and common interests of the said trades, including therein such questions as interference with Foremen, unreasonable demands for wages, minimum rates of wages, employment of apprentices, hours of labour, overtime, limitation of work, piece-work, demarcation of work, machine work, and the employment of men and boys on machines or otherwise; and (b) to secure the equitable carrying out of Agreements made with combinations of workmen;

(3.) To protect the Federated Associations and the members thereof against strikes or disputes with workmen or against losses incurred by acting in conformity with the decisions or recommendations of the Federation or the Board;

(4.) To give to Members of the Federated Associations all such assistance, including pecuniary, legal or other assistance as to the Federation or the Board shall appear proper or desirable;

(5.) To act jointly by federation or otherwise, and to co-operate with any Association or Federation in furtherance of the objects of this Federation;

(6.) To make provision for the settlement of all differences between Members of the Federated Associations and their workmen;

(7.) To watch over all legislative measures which may affect, or tend to affect, the interests of the Engineering Trades; and

(8.) To do all such other things as are in the opinion of the Federation or of the Board, incidental or conducive to the attainment of the above objects or any of them.

Referendum 26. No resolution of the Board which involves a general
—Resolution of Board. cessation of labour shall be passed until the matter has been remitted, for consideration, to each of the Federated Associations.

32. Any Association or Representative thereof shall be entitled to bring before the Board, through the Secretary or Secretaries of the Federation, any question falling within the objects of the Federation. *Appeal to Federation.*

33. No step of general importance to the Engineering Trade shall be taken by any Federated Association without previous consultation with the Board. *Associations to consult Federation.*

34. The Secretaries of the various Federated Associations shall regularly, and as early as possible, report to head-quarters, for the information of the Board, and, when suitable, for circulation in the various districts, particulars of all demands, strikes, and disputes, of whatever nature, embraced within the scope of the Federation, arising in their respective districts, and the progress thereof from time to time. *All Disputes, etc., to be reported and circulated.*

Disputes, Strikes, etc.

35. A dispute or strike shall be considered and dealt with in the first place by the Local Association, subject always to the observance of the provisions of Rules 33 and 34. *Disputes and Strikes—Procedure before Associations.*

36. When a dispute or strike is brought before the Board the Board shall consider and decide what support (if any) shall be given, or, if need be, shall refer the question to the Federated Associations. *Before the Board.*

37. No Member shall employ any workman or boy on strike or locked out from the workshop of another Member, or from any other workshop where the action of the Employer in connection with a strike or lock-out, or the causes thereof, have been formally approved of by the Board, during the continuance of such strike or lock-out. *Case of men on Strike or Locked Out.*

38. Members of the Federated Associations when starting workmen shall in every case use enquiry forms, a specimen of which is appended hereto. *Enquiry Forms.*

Assistance to Members.

48. Any Member of a Federated Association who suffers loss by the adoption of any measure recommended by the Board shall be assisted by the Federation in such manner, and to such extent, as the Board may decide. *Compensation to Members.*

The Board may also under the foregoing circumstances grant advances to Members, give guarantees on their behalf, or otherwise financially assist them as they deem fit. The Board may further afford pecuniary or other assistance to workmen suffering in the Employers' interests from labour questions or disputes. *Assistance to Workmen.*

2.—From the CONSTITUTION and RULES of the NATIONAL FEDERATION of MERCHANT TAILORS.

(Handed in by Mr. J. Allen on the Twenty-first Day. See Question 2703a.)

29. During the continuance of a strike or lock-out no member of the Federation shall employ any workman, who during the period of the strike or lock-out has been employed at the branch or branches where the strike or lock-out exists until the settlement of the dispute.

30. In the event of a strike or a lock-out in any branch or branches of the Federation, the members of the Federation not affected by such strike or lock-out, shall render every assistance in their power to the members of the

Federation affected by such strike or lock-out so as to enable them to get their work duly made up.

31. The Executive shall have power to censure or expel any member of the Federation for disobedience to the regulations or the decisions of the Federation, or of the Executive in cases upon which the Executive are hereby empowered to decide; such member having had seven days' written notice prior to the meeting at which his case is to be considered, of the nature of the charges to be brought against him, and of the time and place of such meeting.

3.—From the CONSTITUTION and RULES of the ASSOCIATION of LONDON MASTER TAILORS

Appendix.

*(Handed in by Mr. C. Corelli on the Twenty-first day. See Question 2716.)*18th to 26th
Day.
Nos. 3 and 1.**Rule X.**

In the event of a strike against any Member of the Association, or in the event of a lock-out wherein any Member is concerned, such Member shall forthwith report the same to the Secretary, and shall submit the matter to the decision of the Executive Committee.

The Executive Committee shall have full power to enquire into the matter in such way as it may deem advisable, and to give its decision thereon. Such Member shall be bound by the decision of the Executive Committee, and shall comply with the terms thereof, provided that there shall be at least 15 Members of the Executive Committee present at any Meeting summoned for the purposes of this Rule. A majority of not less than two-thirds of the Members of the Executive Committee present, and voting, shall be necessary to give effect to any Resolution arrived at. But if such Member so reporting be a Member of the Executive Committee, he shall be precluded from voting at the Committee Meetings at which the matter aforesaid shall be considered or adjudicated upon.

Rule XI.

The Members of the Association shall comply with any directions that the Executive Committee may give in order to support such Member, or to carry out the terms of its decision.

Rule XII.

If the Executive Committee shall pass a Resolution or Resolutions that there shall be a lock-out, or pass a Resolution or Resolutions, in the event of a strike or threatened strike, that the Members of the Association shall adopt a special course for their general mutual protection, then such Resolution or Resolutions shall be submitted to an Extraordinary General Meeting to be called for that purpose, a notice of such intended Meeting to be given by the Secretary in writing to each Member, at least three days before such Meeting.

At such Meeting the voting shall be taken by ballot, and a majority of not less than two-thirds of the Members present, and voting, shall be necessary to give effect to any Resolution arrived at.

Rule XIII.

If any Resolution or Resolutions as last aforesaid be arrived at, the Executive Committee shall have power to make all such regulations as it, from time to time may deem necessary for carrying out, in such way as it may deem advisable, such Resolution or Resolutions. All regulations so made shall be binding upon all Members of the Association after notice, unless set aside at a subsequent Extraordinary General Meeting.

Rule XIV.

If any Member of the Association shall, in the opinion of the Executive Committee, not comply with such Resolution, Resolutions, or regulations or directions, or if in the opinion of the Executive Committee the conduct of any Member is prejudicial to the interest of the Association or its Members or objects, the Executive Committee shall be specially summoned to consider the case. If the Member complained of shall not explain such non-compliance or conduct to the satisfaction of the Executive Committee, it shall call upon him to resign, and if he shall not do so within a week, the said Executive Committee may expel him, in which case his name shall be erased from the List of Members. Provided that there shall be 15 Members of the said Executive Committee present at any Meeting specially summoned for the purpose of this Rule. A majority of not less than two-thirds of the Members of such Executive Committee present, and voting shall be necessary to give effect to any Resolution arrived at. A Member so expelled shall have no remedy against the Association, its Members, or Committee.

1.—From the RULES of the SCOTTISH FURNITURE MANUFACTURERS' ASSOCIATION.

*(Handed in by Mr. Andrew Thomson, Junr., on the Twenty-second day. See Question 3017b.)***OBJECTS.**

2. The objects shall be—

- (i.) To secure the co-operation and unity of the members, and to protect their interests.
- (ii.) To arrange, so far as possible, the working hours, wages, etc.
- (iii.) To protect the Members and the Association against all unreasonable demands by the workmen, and especially to defend them and it from combinations of workmen seeking to impose undue restrictions on, or causing injury to, trade. (The term "workmen" to include all workers, male and female.)
- (iv.) To assist other like associations and their members against loss incurred through acting in conformity with instructions issued by a federation of such associations or executive boards.
- (v.) To give to the members such assistance—pecuniary, legal, or otherwise—as to the Association may appear proper or expedient.

shall be taken by any member without the advice or consent of the Association, and all demands, strikes and disputes, of whatever nature, in any way affecting the general interests of the members, shall be reported to the Secretary, who shall thereupon call a meeting of the Executive Committee. The Secretary shall also keep all the members informed from time to time of the position thereof.

Rule 28.—No Member shall engage any employee on strike or locked out from the employment of another Member during the continuance of such strike or lock-out. This Rule to apply to every person employed, whether on time or contract work. Further, no Member shall employ a workman who has been in the service of another Member of the Association at a higher wage than he was earning until he has proved himself worthy of such increase; and no Member shall, either himself or through his Manager, Foreman, or any other person, directly or indirectly, offer to any workman employment or any inducement to leave the employment of any Member of the Association.

Rule 29.—Members shall not, without the sanction of the Executive Committee, engage a workman or apprentice under agreement until he shall exhibit a

also to report demands and disputes.

Objects

Members to
consult
association ; 27. No step of general importance to the employers,
or in any way affecting, or likely to affect, the interests
of the members, or of the members of other associations,

discharge by his former employer if the latter is a Member of the Association; and Members of the Association shall not engage any workman who is or has been, prior to making application, in the employment of any other Member without first sending the Enquiry Form provided by the Association to the applicant's present or former employer. Members receiving Enquiry Forms must fill up and return same at once—otherwise the employer who has sent it shall be free to employ the applicant without further notice. It being provided that in the event of a workman making personal application, and where it is found inexpedient or impossible to make enquiry, the employer shall be empowered to give the workman employment without further delay.

In all such cases Enquiry Forms must be used.

30. No Member shall give any general advance in wages, or make any general concession to his employees, without the consent of the Executive Committee first asked and obtained.

31. In the event of any Member sustaining loss through the execution of the requirements of the Executive Committee or the Association, he shall be entitled to be assisted by the Association to such an extent and in such manner, pecuniary or otherwise, as the Executive Committee may recommend. The Executive Committee shall also have power to afford such assistance as they may consider fit to workmen suffering from the action of any trades union or like combination.

18th to 26th Day.
No. 1—continued and No. 1.
Advance in wages.

Compensation to members suffering loss.

Conditions of Employment as Fixed by the Executive Committee

1. That the Truck Act Notice be restricted to apply to upholsterers only, and power given to appoint a committee of two men from the workmen's union, and two members of the Scottish Furniture Manufacturers' Association, to decide in any questions of damages claimed.

2. The holiday shall be definitely fixed and recognised by the workmen and employers, and shall be as follows:—

New Year	-	-	-	-	-	Three Days
Spring	-	-	-	-	-	One Day
Fair	-	-	-	-	-	Minimum of Six Days
Trade	-	-	-	-	-	Last Saturday in August
Autumn	-	-	-	-	-	One Day

with power, however, to employers to retain the services of twenty-five per cent. of their workmen during the Fair week at standard wage, on condition, however, that said employees get one week's holidays immediately after the expiry of the Fair holidays, or as soon thereafter as may be arranged; and in any shop where less than four men are employed, one be retained on the above conditions.

3. Men shall work the full week's time of fifty-one hours before overtime can be charged. Overtime shall be at time and quarter.

4. There shall be no restriction by the men's committee

on the time output of the workmen, nor shall the skill of any man be hampered in any way.

5. It shall be in the option of the employers to adopt the system of piece-work or time-work as they prefer.

6. That the employers be at liberty to employ non-union workmen, and that the union workmen agree to work harmoniously with the other employees who may not be members of any trade society.

7. The radius beyond which extra expenses are allowed for breakfast, etc., shall be two miles from the shop or warehouse.

8. Regarding Rule 6 of the United Furniture Trades Regulations, 3d. extra allowance to be paid every hour between 9 p.m. and until the usual starting time.

9. That no car-money or travelling expenses shall be allowed where a man is sent to a job, because his residence is close at hand.

10. When men are travelling all night by rail or steam-boat, they shall be paid standard wages and 3d. extra allowance for every hour and until the usual starting time. If travelling by van or otherwise on road, overtime rates be charged in addition to above.

ALEXR. RUSSELL, *Secretary*.

54, West Mill St., Glasgow.

1.—From the RULES of the NATIONAL ASSOCIATION of MASTER PLASTERERS.

(Handed in by Mr. G. Soall on the Twenty-fourth Day. See Question 4103.)

OBJECTS.

2.—To secure full discussion of, and where practicable, the adoption of a common policy in regard to questions that may from time to time be raised affecting the trade; to defend the interests of its members, and obtain a freedom of employment and prevent the ever-recurring interferences which are outside the pale of trade unions, and to guard against combinations of workmen seeking by strikes or other methods to impose restrictive conditions on the trade; to secure united action and provide mutual support in dealing with any attempt such combinations may make; to impose unfair terms on individual employers or districts; to establish branches of the Association in towns and districts where they do not already exist; to generally guard the interests of the trade, and obtain fair and equitable treatment from architects in relation to quantities and conditions of contract; to raise and maintain a common fund to be applied and used in carrying out the objects herein stated.

GENERAL PRINCIPLES.

18.—The principles of this Association, being conciliatory to the Operatives, it shall, in all cases of dispute with them, do its utmost by arbitration or otherwise, to avoid strikes or lock-outs, but if the Operatives refuse equitable settlement of a dispute affecting any member of this Association, the matter shall be brought before the Executive Committee, and if they decide that the members interested shall be supported, then each branch, and

every member thereof, shall do their utmost to help to bring the dispute to a successful issue, and shall loyally adhere to such rules as may from time to time be passed with that purpose, on the following lines:—

No member to employ any workman who is "on strike" or "locked out" in disputes, sanctioned by the Executive Committee, and affecting a member of this Association. The Executive Committee to have power to send appointed Agents to inspect the books of any member during a dispute as to the names of men employed, and if they find any "strikers" employed to request him to discharge them.

Each branch to be empowered to fine or otherwise deal with a member who persists in breaking the rules.

Any member dissatisfied with the decision of his branch can appeal to the Executive Committee, and, if still dissatisfied, to a General Meeting of the Association.

No Branch Association or individual member, shall be supported by the Association, except with the sanction of the Executive Committee, or at a General Meeting of the Association. Should the Executive Committee think it desirable to order a General Lock-out, they shall first submit the proposal to a Special General Meeting, and if approved, they shall then take a vote of all the members, but no branch or individual member, shall be bound to observe the order, unless carried by two-thirds majority of votes.

GENERAL RULES AS AGREED BETWEEN THE NATIONAL FEDERATION OF BUILDING TRADE EMPLOYERS OF GREAT BRITAIN AND IRELAND, THE NATIONAL ASSOCIATION OF MASTER PLASTERERS, AND THE NATIONAL ASSOCIATION OF OPERATIVE PLASTERERS, 12TH APRIL, 1904.

(Sent in by Mr. George Soall. See Question 4157).

1. The National Association of Operative Plasterers will not take any steps to compel men regularly employed as foremen or superintendents of plasterers to become members of the N.A.O.P., and the employers will not take any steps to compel any men to cease their membership of, or prevent them joining the Operatives' Society.

2. No employer shall engage any additional apprentices to the plastering trade whilst the number of his apprentices shall exceed one-fourth of the number of journeymen plasterers then employed by him. All apprentices shall be legally bound, the indentures to be open for inspection of the Operative Society within three months of the employment of the said apprentices.

3. No boycotting or blacklisting shall take place by the N.A.O.P. in future, where the firms adhere to the rules mutually agreed upon, and should any firm be engaged to do any portion of plastering work, and do not pay the recognised rate of wages, it shall not be considered a violation of this Agreement, should the N.A.O.P. enter a protest. The employers agree that such rules shall be strictly enforced in all parts of their contracts.

4. For the purpose of demarcation of work, Joint Committees shall be established in the different districts equally representative of the employers and the mechanics, whose representation shall be equally divided amongst the different branches of the trade in question. These Committees shall, as far, and as soon as is possible, draw up schedules of the work which it is recognised belong to certain branches of the trade. To such Committees shall be immediately referred all points of dispute as to demarcation, and the decision of the majority in each case shall be accepted as binding on both sides. Should they fail, however, to decide, then the matter shall be referred for settlement to a similarly constituted Joint Committee, representative of the National Federation of Builders and the other Societies affected, whose decision shall be final, provided that the employers' representatives are *bona-fide* employers of plasterers direct. Pending such reference to the local Committees, no strike or lock-out shall take place, but the decision of the employer shall be provisionally accepted as to who shall do the work, provided that preference shall be given to that branch of the trade which, in practice, has done the work before in that district, and provided that no preference be given on account of the payment of lower wages.

5. In the event of any dispute arising on any job or works, the district officials of the N.A.O.P. shall send written notice to the local Association of Master Builders,

and Master Plasterers, who shall inform them whether the said employer is a member of either of those bodies, if so, a strike shall not be sanctioned by the N.A.O.P. until six clear working days have expired from the receipt of such notice, during which time the matter shall be considered by a Joint Committee of Employers of Plasterers and Members of the Operatives' Union (such Committee to be elected annually) with a view to an amicable settlement; failing a local settlement, reference shall immediately be made to a Standing Joint Committee, consisting of Members of the Employers' and Operatives' Central Bodies, and until they have met and discussed the grievance, no strike or lock-out shall be sanctioned either by the N.A.O.P. or by the Employers' Association.

With regard to the alleged refusal of members of the N.A.O.P. to work with workmen who may not belong to a Trade Union, it is understood the men the operative plasterers object to work with are defaulters, and other men, who have been shown to the employers to have made themselves specially objectionable to the Union men.

6. No employer shall be called upon to pay more than the local standard rate of wages to men engaged in a town or district where the work is being executed, and where no established rate exists, that of the nearest town or district shall be adopted.

7. These rules shall be construed together, and in the light of each other.

Note.—The words "local standard rate" and "established rate" in Rule 6 shall mean "the current rate that is being paid by established custom in the locality."

Signed—

W. H. JESSOP, *President.*

J. ALFRED S. HASSAL, *Secretary.*

On behalf of the National Federation of Building Trade Employers of Great Britain and Ireland.

WILLIAM SMITHIES, *President.*

On behalf of the National Association of Master Plasterers.

Signed—

MARK JONES,

DAVID HENNESSEY,

M. DELLER, *General Secretary.*

On behalf of the National Association of Operative Plasterers.

3.—From the RULES of the ASSOCIATION of NON-UNIONISTS.

(Sent in by Mr. Joseph Cardwell. See Question 4280.)

OBJECTS.

2. To maintain freedom of labour, based on the right of every man to pursue his trade or occupation without dictation, molestation, or obstruction, and to afford legal and other protection to its members in the assertion and enjoyment of their right.

3. To provide means for the free registration of the unemployed of all trades and industries whereby the wants of employers requiring labour may be met, and for the more convenient and ready selection of workmen when

required; thus bringing labour and capital together in the free and unrestricted exercise of their individual rights as employers and employed.

PROTECTION OF MEMBERS.

16. In case of intimidation or violence arising through Trade Disputes, the case shall in the first instance be placed before the Executive Committee, who shall, if necessary, lay the same before the Solicitors of the Association, to be dealt with, by them, as they deem advisable.

1.—EXTRACTS from the RULES of the NORTH-EAST COAST SHIP-REPAIRERS' ASSOCIATION.

(Sent in by Mr. M. C. James. See Question 4678.)

The Association is established for the following objects, viz. :—

1. To promote and further the interests of the members generally, and in particular to deal in an organised manner with the various questions which affect the interests of the members.
2. To secure mutual support and co-operation in dealing with demands made by workmen, and to hold free and friendly communication or conference with representatives of the workmen, in order to obtain amicable settlements of wages and other questions affecting the trade.
3. To afford (a) a ready means of consultation between its members on legislative and general matters affecting the Shiprepairing Trade; and (b) a source of information and advice on questions of difficulty in regard to labour.
4. To afford a basis for any concerted action that may be necessary from time to time, and that may be determined by the Association in furtherance of the above objects.

VIII.

In the event of a "strike" against any Member in any department of his works, such Member, should he consider the strike of sufficient importance, and desires the assistance of the Association in respect thereof, shall give notice in writing to the Secretary of the existence and cause of such "strike," and the Secretary shall at once communicate the particulars to each Member of the Association, and also to those Firms and Associations in this and other districts who may have undertaken to act in concert with the Association.

IX.

In the event of any demand being made upon any Member of the Association by any class or body of men in his employment for an increase of wages, or for any other concession which, if granted, might interfere injuriously with his trade, or with any of the objects of this Association, such Member shall report the same in writing to the Secretary or the Chairman, whose duty it shall be at once to call a Meeting of the Association to confer with the Member upon whom the demand has been made.

1.—From the RULES of the FEDERATION of BLEACHERS and DYERS.

(Handed in by Messrs. Warburton and Knott on the Twenty-Sixth Day. See Question 5056.)

Objects of
Federations
and Joint
Committee

7.—The objects of each Federation and of the Joint Committee shall be :—

- (a) Mutual support and protection of Members.
- (b) Combined action in, and, if possible, amicable settlement of any differences or disputes with workpeople.

Applications
to Federations
by Joint
Committee.

14.—Any Member of a Federation desiring the support of his Federation, or of the Joint Committee, shall bring his case before such Federation, and the Federation may either deal with the same themselves or refer it to the Joint Committee, and notwithstanding such reference shall retain power to support such Member independently of the Committee, and to use its own funds for such purpose.

If there shall be referred to a Federation or to the Joint Committee any difference or dispute between a Member of a Federation and his workpeople, or any of them, the Federation or the Joint Committee may at the request of such Member undertake and conduct negotiations for the settlement thereof, and in case of a strike or lock-out at the works of any Member whose action shall be approved may afford to such Member in such manner and for such period as may be thought fit, any pecuniary assistance which may be considered desirable.

Return of
work taken
during a
strike or
lock-out, and

20.—If any Member shall, during a strike or lock-out approved by a Federation, have received work which in the opinion of his Federation properly belongs to another member of a Federation who was unable to do it on account of such strike or lock-out, such Member

shall, when such strike or lock-out is ended, and for six months at least after its termination, refuse to continue to do such work, and no Member shall during any such strike or lock-out as aforesaid engage any of the hands or employes who may be out of work on account thereof.

prohibition of
employment
of the
hands out of
work.

21.—If at a General Meeting of any Federation called especially for the purpose of considering the desirability of a general lock-out or strike, of which Meeting seven days' notice at least shall have been given, a Resolution in favour of a general lock-out or strike shall be passed in manner hereinafter mentioned, then every Member of such Federation who works during such lock-out or strike shall pay to the Federation by way of penalty such a sum or sums as the Federation may by Resolution passed in like manner determine, but not exceeding as a maximum for each week during which such Member so works £15 for each vote to which he is for the time being entitled. All such penalties shall form part of the funds of the Federation, and be applicable in aid of those Members who have stopped work.

Penalty for
working
during a
general strike
or lock-out.

24.—A Member may in any of the following cases be expelled from a Federation by Resolution of a General Meeting of such Federation and immediately on the passing of such Resolution he shall cease to be a Member of such Federation, and unless otherwise directed by such Resolution, shall forfeit all claim to the funds of such Federation; that is to say—

Expulsion of
Members.

- (c) If in the opinion of the Federation such Member has knowingly committed any breach of Rule 20;

2.—EXTRACTS from the RULES and REPORT and BALANCE SHEET for year ending 31st DECEMBER, 1903, of the SCOTTISH OPERATIVE TAILORS AND TAILORESSES' ASSOCIATION.

Appendix.

26th Day.
No. 2.

(Handed in by Mr. F. Stoddart on the Twenty-Sixth Day. See Question 5147.)

From the RULES of the SCOTTISH OPERATIVE TAILORS AND TAILORESSES' ASSOCIATION TRADE PROTECTION AND BENEFIT SOCIETY, as amended at CONFERENCE, FEBRUARY, 1901.

VICTIMISATION.

6. Any officer being discharged from his employment for holding office, or any member being delegated on the business of the Association, and losing his employment in consequence, or any member being sacrificed for upholding the principles of the Association in the workshop, he shall immediately report the same to the Branch Committee, who shall summon the men in the shop, and should it be proved to their satisfaction that the member is being victimised, they shall obtain the consent of the E.C. to withdraw the men pending a satisfactory settlement. Strike, Lock-out, and Victimised Allowance, 15s. per week.

ARREARS.

15. *It shall be the duty of the Branch Secretary in all cases of men falling into arrears over eighteen weeks to intimate the same to the men in the shop where the member is working; and in the event of such members not bringing themselves into harmony with the Rules, the Branch Committee shall have power to deal with them as in the case of non-members.*

16. That new members shall not be allowed to exceed four weeks arrears during their term of probation.

Note.—The Stewards shall read the books at least once a month in all shops.

DIVISION OF LABOUR IN SLACK SEASONS.

22. That in order to effect a better division of labour in slack seasons, the local Committee shall do all in their power to get turns introduced into all Society shops where the system is not already in force; and that any member assisting an employer to evade this rule shall be dealt with—first by admonition; second, by fine; third, in such manner as the Committee see fit. That it shall be imperative for any evasion of this rule to be at once reported to the Branch Committee.

N.B.—Society shop shall mean any shop in which a majority of the men are members of the Society.

PARTNERS.

23. That no partners be recognised by the Society except on special occasions, such as mournings or job wanted in an exceptionally short space of time.

MEN LEAVING WORK.

24. In cases of members of the Association leaving work unfinished for which they have been paid, it shall be the duty of the members to report same to local secretaries with full particulars as to name and address (and, if possible, the name of the place or town to which he belongs) together with the name and address of the firm and the amount he is owing, Branch Secretaries to forward the same to the General Secretary, whose duty it will be to prepare a special list of said defaulters for publication in Half-Yearly Reports, and in the event of any of those whose names appear on the black list coming into any shop the men shall take immediate steps to compel the defaulter to pay the debt. To be reported to Branch Secretaries at the end of every six months until a settlement is effected. In addition, it shall be the duty of Branch Secretaries to endorse said defalcation on all certificates of transfer; but if the debt remain unpaid for a period of three years, the name of the person to be deleted.

DAY'S-WAGE MEN AND APPRENTICES.

25. That one day's-wage man be allowed for each firm,

and that the teaching of apprentices be entirely confined and entrusted to his care—a maximum of three apprentices being allowed. That no member be allowed to make more than a week-to-week engagement; that no day's-wage man make more trade than makes up the wages he is paid. During slack seasons, when jobs are in turns, week's-wage men shall be restricted to the Log of the town; that day's-wage man's wages be ascertained by counting work done from time statement, deducting boys' help therefrom, and that it shall be the duty of Branch Committees to see that day's-wage men keep a record of wages earned from week to week while turns are on. Boys' help to be reckoned the same way as day's-wage man. Also, in the event of men refusing to work at jobs which are against the interests of the Society, the week's wage men must also refuse to do so.

APPRENTICES.

26. Firms employing 6 men and under to be allowed 1 apprentice; 15 men and under, 2; but in no case shall any firm be allowed more than 3 apprentices. That every apprentice shall serve five years to the trade, and that no boy be permitted to start as an apprentice before he is fourteen years of age.

Note.—An employer who by rule is only entitled to one apprentice, shall be allowed to take another one on the last year of the one he already has.

ACTING DETRIMENTAL.

27. That in the event of any one wishing to join or rejoin who has acted in any way detrimental to the interests of the trade, the branch shall have power to deal with him, subject to the decision of the N.E.C.

28. That in the event of any member acting detrimental to the interests of the Society, a general meeting shall have full power to deal with said member, subject to the approval of the N.E.C.

29. That there be published every six months a list of the names of all men who have acted dishonourably to any Branch, and the amount of entry-money they must pay on entering the Society, said list to be hung up in all Society shops.

SWEATING SYSTEM.

30. That the system of sweating being highly injurious to the health and morals of those connected with it, it shall be imperative on the N.E.C. to take advantage of every opportunity that may occur to check this growing evil; and in no case shall any member of this society be allowed to work for an employer at home.

MACHINE WORK.

31. Members of our Society may do the machine work in the shop, provided they are paid half the price of hand sewing therefor.

SCHEME FOR ORGANISATION OF WOMEN.

OBJECTS.

1. To promote a better understanding amongst the various workers in the Trade, and to admit women either as Trade Members or both Sections, as hereinafter stated.

2. Be it understood, that in all shops where men are exclusively employed, women will be permitted to work,

Appendix.

28th Day.
No. 2—
continued.

but they must receive the same remuneration as men (or the Log), and women working in these shops to be subject to the Rules that guide the men.

FACTORY WORKERS.

All factories are now open to our members, and all Factory Workers are eligible for Membership in our Union.

Rules for Bespoke Ladies' Tailoring Establishments, conducted under the Factory System.

1. *Definition of Factory*:—A Factory shall be under-

stood to mean a place where Ladies' Tailoring is got up on the division of labour principle and such other places as come under the Factory Act.

2. That one woman shall be allowed for every two men employed; said women to be members of our Society under scheme provided in our rules.

Note.—This clause shall only apply to Bespoke Establishments.

3. That day's wages be paid, a minimum wage to be arranged for women.

From the REPORT and BALANCE SHEET of the SCOTTISH OPERATIVE TAILORS AND TAILORESSES' ASSOCIATION from 1st JANUARY to 31st DECEMBER, 1903.

Never before in the history of our Society have we experienced a general attack involving such large numbers as about 2,000 men, nor had we any idea when we attacked the wages question in Edinburgh that the dispute would reach beyond the limits of that Branch. Who would have thought that such determined resistance would have been given to the demand in view of the fact that no advance had been asked for thirteen years, also that within that time almost all the towns in Scotland had been advanced in our trade, many of them several times. Then Glasgow had got advancement the year before, and Edinburgh and Glasgow had always been on the same level in wages. It cannot reasonably be denied that both Branches were due an advance in wages, as look at the difference in cost of living in 12 or 13 years in both cities, also in order to bring them a little nearer the level of other trades, many of whom have been advanced several times within the period named. This trend of thought would lead us to the opinion that we had slept or neglected our interest too long in both Edinburgh and Glasgow, and allowed the hey-day to go past while other tradesmen were improving their position, and which appears to have increased the difficulty of our task.

The employers were not wholly uncompromising, as a number of them gave way early in the dispute, and at the end of March the others offered to give the advance on first and second class dress suits, frock coats, dress jackets and morning coats. This offer was felt to be very unsatisfactory, and not to be thought of for various reasons. From this time the position became more acute, and more isolated, and so it continued till Glasgow got notice of reduction in the last week of May, when they too came on strike. Then bye-and-bye Aberdeen got submitted to them the proposed change in working conditions that had been received by the E.G. on 11th June, the result being that they also came on strike. Subsequently Perth was notified for the same change, and influence was also brought to bear on Dundee in the same direction. At the beginning of May, Messrs. Gordon & Meggitt, representatives of the English and Irish section of the Employers' Federation, suggested through Mr. Flynn, General Secretary of the Amalgamated Society of Tailors, a meeting or parties to discuss differences and if possible settle. This proposal, however, hung fire, but eventually we met on 17th June, when, as is already well known, the employers took up a most uncompromising position, refusing absolutely to entertain any advance in Edinburgh, and insisting on $\frac{1}{4}$ d. per hour reduction in Glasgow. Then just a few days after this the Board of Trade endeavoured to throw oil on the troubled waters by bringing parties together under a Chairman nominated by them, with, or without, a casting vote. To that proposal we agreed, but it did not find favour with the other side, and so the dispute went on till 17th September, when a settlement was finally arrived at. All this the members are generally aware of, so that it is not needful to here traverse at great length the ground already well known.

We are sorry that the after effects have not been favourable, and that, following the reduction in Glasgow, first Paisley, and later on Ayr has come down $\frac{1}{4}$ d. This, of course, was only a natural outcome, and therefore to be expected, but let us profit by the lessons we have learned, and, if we do so, we will soon recover from the present position, and gradually regain lost ground. The necessity

for us having stronger protective arrangements than hitherto is clearly demonstrated. We are, however, convinced that, apart from all other considerations, the bad season alone was responsible for beating us.

We are much indebted to those Trade Unions who came so generously to our assistance with loans and grants. We think we interpretate the feelings of the members when we say that their generosity will not be forgot.

We fought a good fight, no body of men could have made a better stand than our members, and as a matter of fact, no Trade Union has made a better and more united stand for their rights than did our Union. We deserved to win, as we had justice on our side, but since that has been denied us, there is no good lamenting the situation, but rather let us set ourselves to repair any weak spot, and be able in future to insist on our rights being conceded. Other Unions have been beaten and rallied to a better position, and been stronger than ever. Why should this not be the case with us? We feel assured it will. We want to be staunch and determined, to be loyal and cling together, and all will gradually come right. We deeply sympathise with the men who did not get into shops after the settlement. Such courage and determination as they evinced throughout a long and trying dispute deserved a better fate.

Appended are proposals and agreement in order that members who have not yet seen, or are not sure, about their terms, may acquaint themselves with their particulars.

"THE NATIONAL FEDERATION OF MERCHANT TAILORS.
"SCOTCH COMMITTEE.

"212, St. Vincent Street,
Glasgow, 11th June, 1903.

"Mr. R. Girvan, *General Secretary*,
"Scottish Operative Tailors' Society.

"Dear Sir,—I am now instructed by the Scotch Committee to intimate to you that they are prepared to meet the Executive of the Operatives' Society to discuss the question of the rate of pay in Edinburgh and Glasgow, and also to consider the following demands of the Masters :

"(1) The adoption of the new Time Log for Scotland based on actual time.

"(2) The Masters to have perfect freedom in the conduct of their workshops, and that they be at liberty to engage such workmen and workwomen as they deem suitable for doing their work, whether unionists or non-unionists, and that in quiet seasons they use their own discretion, as at all other times, in giving the work to such workpeople as they consider best capable of turning it out.

"(3) The Masters, if they desire to do so, to have liberty to increase the number of day's-wage men in each workshop.

"(4) The Masters to have liberty to employ out-workers under proper sanitary conditions if and when required.

"(5) That the regulations as to apprentices be altered and that any Master be at liberty to have at least three apprentices: shops employing more than thirty men, and not exceeding forty, to have four apprentices, and so on at the rate of one additional apprentice for every ten or part of ten men employed over that number.

"(6) That no Official of the Operatives' Union be allowed to enter their workshops during working hours.

"(7) That the Rule of the Operatives' Union, so far as affecting the Masters, must be submitted to and approved of by them.

"After you shall have submitted these demands to your Executive, I shall be glad to hear from you that you are prepared to discuss them with my Committee. If so, the meeting can be arranged, and you might suggest a date.

Yours faithfully,
FRANCIS STODDART, *Secretary.*"

MINUTE OF JOINT COMMITTEE of the Scotch Committee of the National Federation of Merchant Tailors and the Executive of the Scottish Operative Tailors' Society, held in the Religious Institution Rooms, 200 Buchanan Street, Glasgow, on Thursday, 17th September, 1903, at four o'clock afternoon.

Present—Scotch Committee—Messrs. James Thomson, John Scott, W. Shearer, James Laidlaw, Glasgow; John Stewart, J. C. Laughton, John Harriess, and W. Kinloch Anderson, Edinburgh; Henry Davidson and Alex. Morrison, Aberdeen; J. J. H. Henry and Alex. Tocher, Dundee; W. Byars, G. P. Valentine, H. W. Murdoch, and Thomas Learmouth, Perth; and Francis Stoddart, Secretary. Executive of Operatives' Society—Messrs. Claude Gardner, Charles Ross, Robert Girvan, Andrew Buchan, John Wallace, Donald Davidson, Andrew Rodger, Charles Beattie, and Gilbert S. Grosart.

On the motion of Mr. Girvan, Mr. Thomson was called to the chair.

Mr. Francis Stoddart was, on the motion of the chairmen, appointed to take the minute of meeting.

Mr. Girvan, in answer to Mr. Thomson, stated that the demand for advance of a half-penny per hour on present Log Rates in Edinburgh was withdrawn, and that the reduction of a half-penny per hour on present rates demanded by the Glasgow masters was agreed to by the operatives.

Mr. Girvan thereafter asked the masters to withdraw their demands for the alteration of the working conditions, but the masters declined to do this.

The meeting thereafter proceeded to discuss these, as contained in the letter of the 11th June from the Masters' Secretary to the General Secretary of the Operatives; Mr. Girvan, however, stating that any arrangements come to were subject to the approval of the branches of the operatives affected.

The first demand, viz.—The preparation and adoption of a new Time Log for Scotland, based as near as possible on actual time, was agreed to; and it was arranged that

a Committee of an equal number of masters and operatives be appointed by the respective Societies to report to a future joint meeting on the best methods of proceeding with this.

The second demand was amended and agreed to as follows:—The masters to have perfect freedom in the conduct of their workshops, and that they be at liberty to engage such workmen and workwomen as they deem suitable for doing their work, and that in quiet seasons they use their own discretion, as at all other times, in giving the work to such workpeople as they consider best capable of turning it out, but the principle of job about shall be recognised.

The third and fourth demands of the masters relating to day's-wage men and outworkers were withdrawn.

The fifth demand was amended and agreed to as follows:—That the operatives' regulations as to apprentices be retained, and that any master employing more than thirty men and not exceeding forty be entitled to have four apprentices, and so on at the rate of one additional apprentice for every ten or part of ten men employed over that number.

The sixth demand—That no official of the Operatives' Union be allowed to enter their workshops during working hours—was withdrawn.

The seventh demand was amended and agreed to as follows:—That the Rules of the Operatives' Union, and any alterations thereon so far as affecting the Masters' must be intimated to the Masters' Federation one month before becoming operative.

It was further arranged and agreed that in the event of any proposed change in rate of pay there be two months' notice given on either side.

It was further agreed to recommend to the branches of each Society that Arbitration Committees be formed in each town, consisting of an equal number of masters and operatives, to deal with disputes arising in workshops in each town, and that the men should not stop work pending a decision.

It was further arranged that the masters would reinstate as many of their old employees as they possibly can—the men presently engaged not to be interfered with.

(Signed) JAMES THOMSON, *Chairman.*
Master Tailors' Association.

(Signed) CLAUDE GARDNER, *Chairman.*
Executive, Scottish Operative Tailors' Society.

Note.—The above agreement makes no alteration in the past working conditions, with the exception of the apprentice Rule and the employment of women.

BLACK LIST.

Names of Men who have left Work Unfinished, for which they have been Paid, 31st December, 1903 (see Rule 24).

BROXBURN.		Amount.
<i>Name of Defaulter.</i>	<i>Name of Firm.</i>	
John O'Docherty, Dublin	Co-operative Society	£0 10 0
GLYDEBANK.		
Daniel Cameron	Co-operative Society	0 4 9½
John Campbell	Do.	1 6 3½
William Ross	Do.	1 0 9½
		£2 11 10½
EDINBURGH.		
Forrester, Juniper Green	Middlemass Bros.	0 4 8
Duncan Stewart, Perth	Do.	0 8 2
Samuel Dodds, Wigton	Do.	0 4 6
John Corcoran	Do.	0 6 0
John Hill, Galashiels	St. Cuthbert's Co-operative Store	1 10 9
James Anderson, Edinburgh	Do.	1 13 6
James M'Ewan	W. M'Kimmie	0 11 1½
David Dodds	Do.	0 7 3
Alex Harper, Perth	Do.	0 10 0
James Judge, Sen., Edinburgh	A. & J. Lambert	2 3 6
— Carter, Canada	Do.	2 14 1½
Wm. Buchan, Edinburgh	Do.	0 17 9
Wm. Perry	Do.	0 17 6

Appendix.
—
26th Day.
No. 2—
continued.

Appendix.

26th Day.
No. 2—
continued.

EDINBURGH—continued.

Name of Defaulter.	Name of Firm.	Amount
Wilson Strachan	A. & J. Lambert	£0 13 7½
Adam M'Beath	Do.	0 7 7½
Wm. Ross	Do.	0 4 10½
James Paterson	Do.	0 11 6½
John Elder	Do.	0 18 3
— Ruhmore	Henry, Darling & Co.	0 6 4½
John Henderson	A. M'Donald	0 14 7
John M'Pherson, Edinburgh	Munro & Co.	0 3 6
James Sutherland	Do.	0 13 6
Laurence Farrell	J. Stewart & Son	0 7 6
David Dodds, West Calder	Anderson	0 6 4½
Wm. Clark, Carnoustie	Do.	0 7 6
John Campbell, Aberdeen	Do.	1 9 10½
David Dodds, West Calder	Lauder & M'Pherson's	0 18 9
Laurence Farrell	Do.	0 6 0
Andrew Purvis, Haddington	Taylor & Turnbull	0 11 6
James Couper	Do.	0 10 0
James Cook, Leeds	Stark Brothers	1 0 0
John Wightman, Edinburgh	Do.	0 4 6
— Lunn, Musselburgh	Do.	0 4 7½
William Inglis, Edinburgh	Do.	0 8 9
Wm. Cox, "	Do.	0 6 10½
John Wyllie, "	Do.	1 13 5
Donald Reid, "	Do.	1 3 11½
John Ramsay, "	Do.	1 5 9
Thomas Wilson, "	Stark Bros.	1 6 5
Samuel Dodds, "	Do.	0 1 7½
— Hepburn, "	Do.	0 14 6
David Donald, Arbroath	Do.	1 6 2½
J. M'Kendrick, Glasgow	Hogg & Syme	0 18 0
James M'Gregor, Aberdeen	Do.	1 2 8½
Robert Wilson	Do.	0 3 0
Wm. Smith, Edinburgh	Do.	0 3 0
John Caldwell, Galashells	Keates	0 16 0
Wm. Reid, Elgin	Christie & Son	0 10 0
Wm. Buchan, Edinburgh	Do.	0 10 0
Charles Bell, "	Do.	0 7 0
Alex. Strachan, Errol	Do.	0 11 4½
James Bowie, Edinburgh	Do.	0 1 9
A. Gow, "	Do.	2 9 10½
Frank Nelson	Holtum & Welch	0 10 0
Charles Gallacher	Durant's	0 4 0
Joseph Smith, Keith	Maule's	1 5 10
Hans Andersen	Do.	0 13 0
James Nelson	Do.	0 13 9
John Turnbull, Dundee	Bryan's	0 6 8
James Scott, Kelso	Do.	0 6 1

£43 8 7½

GLASGOW.

John Barber	Macleod & Son	£0 10 0
Samuel M'Gill	Do.	0 10 0
Donald Wallace	Borland Bros.	0 10 0
David M'Gill	Gunn & Collie	1 12 0
John Thornton	Do.	1 4 9
Alexander Munro	Do.	0 17 3
Harry Burns	Do.	1 12 9
J. Haggarty	Lillie & Russell	0 4 0
James Gormley	Thomson & Son	0 7 10½
Hugh M'Rae	Do.	0 13 1½

£8 2 6

GREENOCK.

John Black	A. Clelland	£2 12 3½
A. Rowan	Do.	0 8 9
P. Stewart	Do.	1 0 0

£4 1 0½

WEST CALDER.

James Masterton, Bathgate	Co-operative Society	0 4 5½
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Total, £58 18 6

TRADE DISPUTES BILL (No. 2) 1905.

Presented by Mr. Whittaker, M.P.

A BILL TO AMEND THE LAW RELATING TO TRADES UNIONS AND TRADE DISPUTES.

A.D. 1905.

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following purposes at or near a house or place where a person resides or works, or carries on his business, or happens to be—

(1) For the purpose of peacefully obtaining or communicating information;

(2) For the purpose of peacefully persuading any person to work or abstain from working.

2. An agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute shall not be ground for an action, if such act when committed by one person would not be ground for an action. Amendment of law of conspiracy.

3. An action shall not be brought against a trade union, or other association aforesaid for the recovery of damage sustained by any person or persons by reason of the action of a member or members of such trade union or other association aforesaid. Protection of trade union funds.

4. This Act may be cited as the Trades Dispute Act, 1905. Short title.

Legalisation of peaceful picketing.

TRADE DISPUTES BILL (No. 205), 1905.

Presented by Mr. Whittaker, M.P.

A.D. 1905.

A BILL (AS AMENDED BY THE STANDING COMMITTEE ON LAW, &c.) TO AMEND THE LAW RELATING TO TRADES UNIONS AND TRADE DISPUTES.

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. It shall be lawful for any person or persons acting either on their own behalf or on behalf of a trade union or other association of individuals, registered or unregistered, in contemplation of or during the continuance of any trade dispute, to attend for any of the following purposes at or near a house or place where a person resides or works, or carries on his business, or happens to be—

(1) For the purpose of peacefully obtaining or communicating information;

(2) For the purpose of peacefully persuading any person to work or abstain from working;

Provided that no person shall, after being requested by any person annoyed by his conduct, or by any constable instructed by such person, to move away, so act as wilfully to obstruct, insult, or annoy such person.

2. An action shall not be brought against a trade union or other association aforesaid for the recovery of damage sustained by any person or persons by reason of any act or conduct of a member or members of such trade union or other association aforesaid, unless the member doing the acts complained of can lawfully be held to be an agent of the trades union, or unless such acts have been adopted or ratified by such union: Protection of trade union funds.

Provided always that no funds of a trade union allocated solely for benevolent or charitable purposes shall be made liable for damages for acts done in furtherance of trade disputes only.

3. The expression "trade union" in this Act shall have the same meaning as in the Trade Union Act, 1871, as amended by the Trade Union Act, 1876. Interpretation.

4. "Trade Dispute" means a dispute as regards the rate of wages or other terms of employment. Definition of "trade dispute."

5. This Act may be cited as the Trades Dispute Act, 1905. Short title.

Legislation of peaceful picketing.

STATEMENT BY MR. PARKER RHODES ON THE IMPROVEMENT OF THE LEGAL STATUS OF TRADES UNIONS REFERRED TO IN QUESTIONS 2350-2351.

On consideration I adhere to the expression of opinion given by me on examination before the Commission.

I think that it would be of advantage to all concerned if the legal status of Trades Unions could be improved. It seems to me that the law, which at present recognises them in part as legal bodies and in part as bodies not possessed of legal rights is defective. I see no objection to Trades Unions being invested with the power to enforce contracts made between them and their members, provided that some reasonable restriction is imposed, which would prevent an individual being bound for an indefinite term, and which would enable him to determine his connection with any Union or Association on reasonable

notice. At present Trades Unions cannot legally enforce obligations entered into with them by their members. The result is that they do enforce them, but by other than legal methods. I think it would be better for the individual member of the union and for the unions themselves that this restriction should be done away with, subject to some such provision as I have indicated. It appears to me that the absence of a right to enforce an obligation by legal means is certain to lead to the employment of illegal methods, and in that case the oppression, as far as the individual is concerned, is greater than it would be if his liabilities were determined or enforced by a competent independent tribunal,



